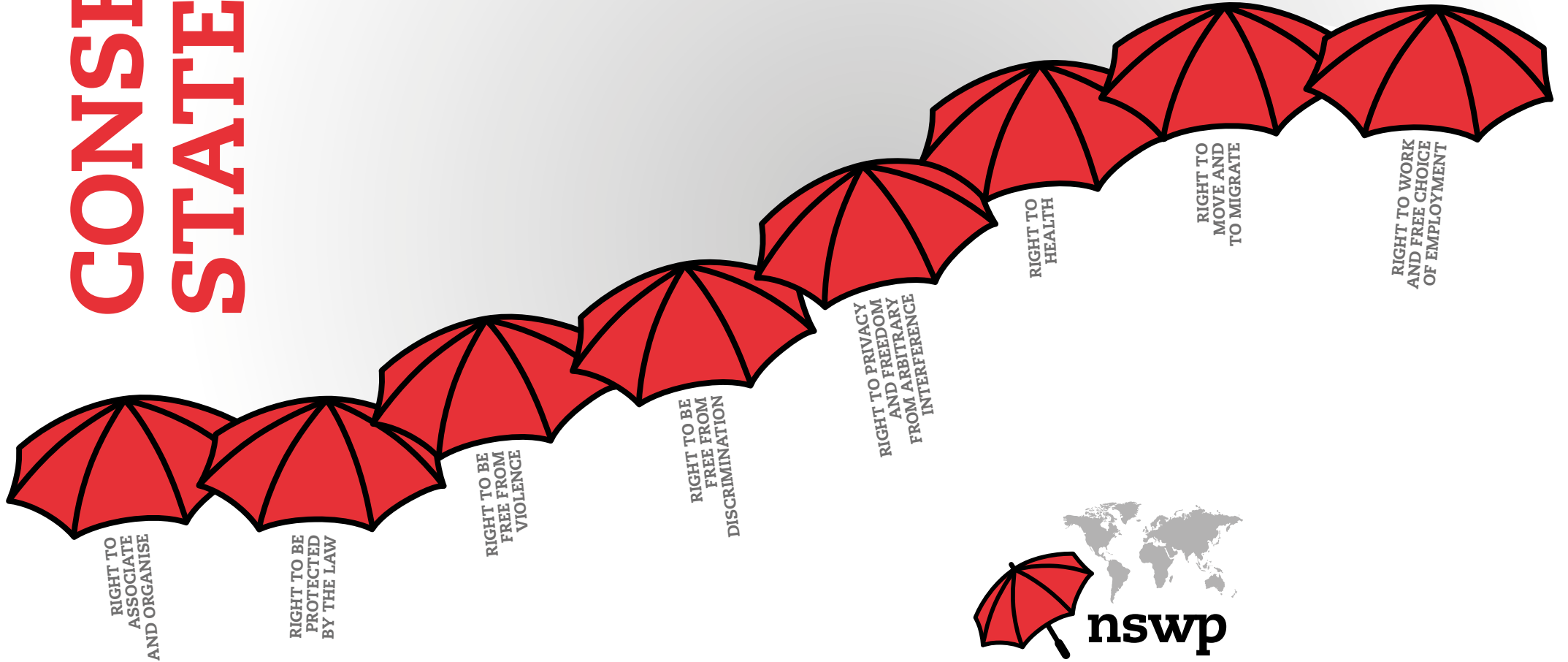


CONSENSUS STATEMENT

On Sex Work, Human Rights, and the Law





THIS CONSENSUS STATEMENT REAFFIRMS NSWP'S GLOBAL ADVOCACY PLATFORM FOR SEX WORKERS' HUMAN RIGHTS AND THE LAW.

This Consensus Statement follows global consultation with NSWP members: our membership comprises more than 160 sex worker organisations in over 60 countries across the globe including local, regional, and national networks. Representing NSWP's global advocacy platform for sex work, human rights, and the law, this Consensus Statement is issued on behalf of NSWP members and the sex workers they represent including sex workers of all genders¹, class, race, ethnicity, health status, age, nationality, citizenship, language, education levels, disabilities, and many other factors.

NSWP would like to thank Open Society Foundations' Public Health Program (SHARP) for financial support and all the NSWP member organisations who took part in producing this document.

¹ In this statement, 'sex workers of all genders' refers to female, male and trans-identified sex workers. Sex workers across the world use different terminology to refer to trans communities – we use the term trans in a global context but different terminology in regional contexts.

NSWP CORE VALUES

This Consensus Statement is guided by NSWP's core values:

- 1 Acceptance of sex work as work.**
- 2 Opposition to all forms of criminalisation and all other legal oppression of sex work (including sex workers, clients, third parties², families, partners and friends).**
- 3 Support self-organisation and self-determination of sex workers.**

² The term 'third parties' includes managers, brothel keepers, receptionists, maids, drivers, landlords, hotels who rent rooms to sex workers and anyone else who is seen as facilitating sex work.

INTRODUCTION

Sex workers' experiences of human rights violations have been formally recorded in scholarly literature, submissions to the UN, by courts, and in the writings of sex workers. Abuse and rights violations occur across health and social care, housing, employment, education, by police and other state actors, and in religious and legal systems globally. These violations occur to different degrees and in different ways, depending on whether sex work is legal or illegal and how it is regulated.

Human rights protection has played an important role in global and national struggles for sex workers' rights. Over time, at national, regional, and global levels, members of NSWP have advanced discourses to include the claim that "sex workers' rights are human rights". Through this statement, sex workers have successfully advanced their claims for rights but they have also highlighted the limitations of human rights frameworks. Sex workers express the need to move beyond legislation and policy frameworks to fight for their rights.

Reforming prostitution³ laws and policies alone is not enough. Law reform must be accompanied by actions that recognise that some laws contribute to and reinforce historical and structural inequality and disadvantage, based on discrimination on

the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, class, ethnicity, gender and gender identity, sexual orientation, health status (including HIV), marital or other legal relationship status, citizenship or immigration status, physical mobility, mental health, or other status⁴.

This Consensus Statement outlines fundamental rights for sex workers of all genders, class, race, ethnicity, health status, age, nationality, citizenship, language, education levels, disabilities and other status. It also sets out the proactive measures governments and responsible authorities must take to fulfill and protect these rights.

³ We use the term prostitution to refer to the ways that law makes reference to sex work. Our use of the term sex work in this statement is purposeful and political and speaks to our solidarity across working contexts and the recognition of sex work as work.

⁴ The sex worker community has identified these as the discriminatory factors that they most frequently experience. Some of these are cited in the international human rights treaties (race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or 'other status'), and others that are not cited specifically but which human rights advocates (including sex workers' rights activists) argue should be recognised as grounds of discrimination, including; class, ethnicity, gender and gender identity, sexual orientation, health status (including HIV), marital or other legal relationship status, citizenship or immigration status, physical mobility, and mental health.

CONSENSUS STATEMENT FOR A GLOBAL SEX WORKER RIGHTS MOVEMENT:

The following 8 rights have been recognised and ratified by most countries as fundamental human rights. Sex workers are entitled to these fundamental rights: they are established in various international human rights treaties, as well as national constitutions. How these human rights are respected depends on the local, national, and regional contexts: these fundamental rights are commonly accepted as those that governments are obligated to protect. NSWP and other social justice groups argue that states are responsible to proactively protect fundamental rights *and take measures that will help to protect, respect, and fulfil these rights for all.*

The strategies used to fight for sex workers' rights may differ but sex workers' fundamental rights across the globe remain the same.

1

Right to associate and organise

THE CRIMINALISATION AND LEGAL OPPRESSION OF SEX WORK LIMITS SEX WORKERS' EFFORTS FOR COLLECTIVE ADVOCACY AND SELF-DETERMINATION. This makes it dangerous or illegal for sex workers to form associations and undertake advocacy, peer support, and service provision, without the risk of police surveillance, arrest and/or detention. Stigma and discrimination against sex workers reduces the capacity for sex workers to organise and build stronger movements that aim to improve sex workers' health and safety.

Although sex workers in some regions can establish trade unions, criminalisation and the lack of legal recognition of sex work as work undermines sex workers' ability for collective bargaining and for improving working conditions.

Sex worker organisations that are sex worker-led, evidence-based, and that take a human rights approach to challenge poor laws, policies, and practices, are most effective in addressing poor working and social conditions. However, these organisations may be restricted by laws, policies, and practices that oppress sex workers.

Sex workers have adopted the slogan "nothing about us without us" to highlight the importance of sex worker involvement as leaders, drivers, and initiators of movements, organisations, and advocacy, to improve sex workers' lives and work.

Sex workers have the fundamental right to:

- **Associate and organise sex worker-led services, groups, companies, trade unions and NGOs for cultural, social, legal and advocacy efforts.**
- **Peaceful assembly and association with others to voice opinions and campaign for sex workers' rights against stigma and discrimination and to better sex workers' lives and working conditions.**

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- **Remove laws against sex work that restrict sex workers' capacity to associate and organise, to undertake collective bargaining, and to improve labour conditions.**
- **End police monitoring, surveillance, arrest and/or detention of members of sex worker rights groups, and sex worker HIV and health programmes.**
- **Implement measures to enable sex workers to participate at all levels of politics without discrimination. This must include protecting the anonymity of sex workers who experience personal, social, and legal consequences of having their identity and sex work exposed.**
- **Invite and meaningfully consult sex workers to ensure that sex workers' expert opinions are included when sex workers' lives and work are discussed by government and other bodies.**
- **Provide funding and other resources for sex workers to mobilise, organise, and establish multi-lingual sex worker-led services, and culturally appropriate services.**

2

Right to be protected by the law

PROTECTION BY THE LAW MEANS HAVING THE SAME PROTECTIONS AS ANY OTHER HUMAN BEING.

It also means having access to justice in cases of violence or discrimination and being entitled to equal treatment before the law. Legal oppression and criminalisation force sex workers into isolation and dangerous working conditions, factors that contribute to sex workers being targeted for acts of violence. Laws that criminalise people living with HIV, HIV exposure, or transmission, further oppress sex workers.

Sex workers do not receive equal treatment before the law. This inequality includes a lack of protection from employment laws granted to other workers. The culture of stigma affects judicial decision-making (e.g. sex work being used to demonstrate bad parenting, flawed moral character, or behaviour) and this creates a climate of mistrust between sex workers and officials.

Stigma and discrimination, coupled with the legal oppression of sex work, make it unlikely that sex workers will report acts of violence against them. Sex workers experience legal oppression in the form of policies and practices that seek to disrupt or abolish sex work. For example, anti-trafficking measures that focus on disrupting sex work, 'raid and rescue' operations, and detentions, make all sex workers – and most particularly migrant sex workers – more vulnerable to isolation and violence.

Sex workers have the fundamental right to:

- **No arbitrary or unlawful detention, arrest, removal or deportation, whether a national or migrant sex worker.**
- **Non-judgemental access to a fair trial and other justice mechanisms including compensation, which allows sex workers to access and use the justice system. This must include having sex workers' testimonies being taken seriously and not having sex work histories used against them.**
- **Non-discriminatory and non-intimidatory formal complaints procedures against police and immigration authorities.**
- **Report crimes against them without fear of repercussion, arrest, confinement or the demanding of bribes by authorities.**

2

Right to be protected by the law

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- Repeal laws that criminalise, oppress or penalise sex work, sex workers, clients, third parties, families, partners and friends of sex workers.
- Repeal laws that criminalise HIV exposure, transmission, or non-disclosure.
- End the practice of using sex workers' possession of condoms as evidence of prostitution.
- End raids on sex work venues as protocol of anti-trafficking efforts.
- End public shaming of sex workers, their clients, and sex workers living with HIV.
- Implement effective monitoring systems to end police corruption, including ensuring sex workers' access to complaints procedures and the right to initiate disciplinary action for cases of discriminatory treatment.
- Remove police as regulators of the sex industry.
- Implement curriculum and training for law enforcement, judges, lawyers, court personnel and other relevant bodies, to ensure understanding of sex workers' realities and human rights.

3

Right to be free from violence

Globally, sex workers of all genders face violence.

This includes physical, psychological and sexual violence, often with impunity: this statement is supported by the accounts of sex workers worldwide. Sex workers are targeted and attacked by, amongst others, people posing as clients, by police and law enforcement officials, by anti-trafficking efforts, medical institutions, as well as in situations of armed conflict.

3

Right to be free from violence

The criminalisation and legal oppression of sex work (including sex workers, clients, third parties, families, partners and friends) and activities relating to sex work make it difficult for sex workers to report violence. Accounts of violence against sex workers are often not taken seriously and this system gives people who are violent towards sex workers impunity.

Structural and institutional violence through state-based interventions mean that sex workers regularly face violence during arrest, forced detention, and deportation or removal, often in the name of 'anti-trafficking measures'. Sex workers are often forced to assume a label of 'trafficking victim' when reporting violence against them: this falsely represents their work and their experience of violence. Criminalisation and legal oppression of sex work, sex workers, clients, and managers, creates conditions that contribute to labour exploitation and forced labour.

Medical interventions such as mandatory HIV or STI testing and treatment including mandatory Periodic Presumptive Treatment (PPT) are violent measures that breach the right to be free from degrading treatment and the rights to bodily integrity and privacy.

Framing sex work as violence or as inherently exploitative renders sex workers' realities invisible by not recognising sex work as work. Such framing also portrays sex workers as victims by denying sex workers the agency and capacity to make their own decisions around work and their lives.

Sex workers have the fundamental right to:

- **Live and work free from violence.**
- **Be free from slavery-like practices such as forced or bonded labour and servitude.**
- **Be free from forced rehabilitation programmes including forced drug rehabilitation.**
- **Be protected against forced labour, providing sexual services against their will, and providing sexual services that place their health at risk.**
- **Be free from degrading treatment including health interventions such as mandatory testing and treatment.**
- **Be taken seriously by police and the courts when reporting or testifying about crimes against them.**
- **Safe systems to report state authorities for acts of violence, neglect of duty and corruption, and to have disciplinary action taken against those who undertake this violence.**

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- **Remove criminal laws and other legal oppressions that increase sex workers' isolation and place sex workers at risk of violence.**
- **Treat reports of violence against sex workers seriously and provide accessible ways for sex workers to report violence against them.**
- **Stop institutional and state-based violence against sex workers in the form of arbitrary detention, deportation, or removal, which is often implemented in the name of 'anti-trafficking measures'.**
- **Provide support for sex worker-led programmes that seek to end labour exploitation, coercion, slavery, and slavery-like practices in sex work. These abuses should be addressed through a labour and industrial relations framework that includes access to justice for all sex workers.**
- **Reallocate the time and resources used to investigate and prosecute sex workers and their clients, and channel these into working towards guaranteeing equal access to police protection and the justice system when sex workers are victims of crime.**
- **Promote evidence-based prevention measures and provide support for sex worker-led rights-based assistance and anti-violence programs that prioritise the needs, agency, and self-determination of all sex workers.**

4

Right to be free from discrimination

SEX WORKERS ARE FREQUENT TARGETS OF DISCRIMINATION BY CIVIL SOCIETY, STATES, AND OTHER AUTHORITIES AND SOCIAL SYSTEMS.

Discrimination within legal systems and institutions takes place in criminal law, arbitrary arrest and detention, forced registration, anti-trafficking laws, forced evictions, unequal treatment in family law, court proceedings, and treatment in prison. Discrimination within social institutions occurs in public exposure, discriminatory hiring and firing practices, and exclusion from economic development. Institutional discrimination takes place within health services and by police and court authorities. Discrimination within religious institutions occurs when religious leaders and practitioners exile sex workers and others who are associated with sex workers from communities, and by discriminating against sex workers in religious laws and practices.

Most international human rights treaties contain non-discrimination clauses that indicate that fundamental rights must be applied without discrimination on certain grounds. The most widely accepted international treaties recognise grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or 'other status'. However, individuals and groups in some regions have successfully argued for additional grounds to be recognised under 'other status' including class, ethnicity, gender and gender identity, sexual orientation, health status (including HIV), marital or other legal relationship status, citizenship or immigration status, physical mobility, and mental health. Often governments fail to take positive steps to ensure that marginalised groups benefit equally from protection and services offered to the general public. Sex workers experience discrimination not only based on their work as sex workers but on all of these grounds. The discrimination that sex workers face extends to sex workers' partners, families, social circles, colleagues, clients and others associated with them.

Labeling sex work as a social condition or problem, rather than as work, significantly contributes to the discrimination sex workers face by authorities, health and social service professionals, and society. Whether sex workers consider their work as labour, an identity or a livelihood, the historical, social, and legal oppression of sex work means that the occupation of sex work must be recognised as a ground for protection from discrimination.

There are limitations when using the law to address discrimination. Historically some laws have been used to oppress communities who have not yet been recognised as a legal category to be protected from discrimination. Therefore, anti-discrimination legislation must be paired with broader educational and training initiatives to address stigma, prejudice, and hate against sex workers, and the people who associate with them.

Sex workers have the fundamental right to:

- **Be free from discrimination based on previous or current work as sex workers. This right should also extend to anyone who associates with a sex worker, including clients, third parties, families, partners and friends.**
- **Be free from discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, class, ethnicity, gender and gender identity, sexual orientation, health status (including HIV), marital or other legal relationship status, citizenship or immigration status, physical mobility, mental health, or other status.**
- **Receive official recognition as people with the right to start families, register births, adopt children, and enter marriages or civil partnerships with a partner of choice.**
- **Access to health and social services, and to state or religious institutions, alongside full access to the benefits that they offer.**

4

Right to be free from discrimination

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- End all discriminatory legal, social, health and religious practices that target sex workers, their partners, families, friends, colleagues, clients, and anyone associated with sex workers.
- Recognise and protect gender and gender identity so they are not used as grounds for discrimination.
- Implement anti-discrimination legislation and ensure that constitutions recognise that sex workers are entitled to protection from discrimination. This legislation must recognise sex work as an occupation, and like other statuses, it must legally acknowledge and support sex workers in cases of discrimination.

5

Right to privacy and freedom from arbitrary interference

**SEX WORKERS EXPERIENCE ARBITRARY INTRUSION FROM
LEGAL, SOCIAL, HEALTH AND RELIGIOUS INSTITUTIONS.**

**In particular, the right to privacy is regularly violated through
medical interventions such as compulsory or highly coercive
testing and the disclosure of health test results.**

5

Right to privacy and freedom from arbitrary interference

Sex workers also experience a breach of privacy through mandatory registration on NGO, police, or civil databases. This practice prevents sex workers from accessing health and social services for fear of having their identity and involvement in sex work exposed and it also decreases sex workers' opportunities for employment, education, and access to justice. The right to privacy is regularly violated through raids on sex workers' homes and the confiscation of sex workers' personal property.

Sex workers also experience a violation of their right to privacy through laws that criminalise HIV non-disclosure, exposure or transmission. Medical reports are often not kept confidential, and sex workers' health results are shared with authorities, family, clients, friends, and communities, without sex workers' consent.

Sex workers have the fundamental right to:

- **Privacy and freedom from arbitrary interference with their family, home, and correspondence, including arbitrary confiscation of personal property.**
- **Be free from arbitrary interference and to not have their or their partners', families', friends', colleagues', clients' (and anyone else associated with sex workers) details or identities exposed, including publication of names and photographs.**
- **No mandatory registration of sex workers by public authorities.**
- **Not have their health status, including HIV status, disclosed without their consent.**

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- End police raids and crackdowns that routinely violate sex workers' privacy.
- End mandatory registration of sex workers, including the use of biometric tracking, age testing, and the inappropriate registration of legal names, addresses, and phone numbers.
- Provide informed consent models of anonymous and confidential medical testing, health care, research, and clinical trials.
- Remove laws that criminalise HIV non-disclosure, exposure, and transmission.

6

Right to health

SOCIAL DETERMINANTS OF HEALTH SUCH AS STIGMA, POVERTY, CRIMINALISATION, LEGAL OPPRESSION AND GENDER DISCRIMINATION, CAN NEGATIVELY IMPACT ON SEX WORKERS' HEALTH.

This can include increasing sex workers' vulnerability to HIV. Criminalisation and the legal oppression of sex work means that healthy and safer sex practices are made difficult and commodities for safer sex and drug use are difficult to obtain. For example, in some contexts, condoms are used against sex workers as evidence of criminal activity. A lack of labour protection also deprives workers of power and autonomy while reducing their access to information, health services, and the ability to negotiate safer sex practices.

Many sex workers do not receive relevant, comprehensive, or non-discriminatory health or HIV services. Even fewer receive appropriate comprehensive sexual and reproductive health testing (or screening), treatment, care, and support. This discourages sex workers from seeking health care when needed. In particular, migrant sex workers are less likely to access services if they don't have the necessary documentation, language or knowledge of the health system. Consequently, many avoid all authorities due to fear of deportation or removal.

Bilateral and multilateral free trade agreements are used illegally and unethically to extend intellectual property measures and enforcement. This directly threatens access to life-saving medicines which especially impacts upon sex workers in low and middle income countries. As a result of the wider exclusion from health services that have historically discriminated against sex workers, sex workers already experience unequal access to HIV treatment. Sex workers are therefore extremely vulnerable to being completely cut off from affordable treatment. Alongside the wider community of people living with HIV, sex workers' access to affordable and accessible HIV treatment will be further restricted if intellectual property provisions in these trade agreements are furthered beyond those already contained in the World Trade Organisation TRIPS Agreement (Trade Related Intellectual Property Rights).

Coercive and privacy-breaching medical practices like compulsory or highly coercive testing also discourage sex workers from accessing health programmes. Sex workers' health results are often disclosed to friends, family, clients, communities, or authorities without their consent.

Sex workers require specialist and targeted health services based on gender identity, HIV status, location of work, and other factors based on particular needs. Specific health needs for people under 18 who sell sex are often excluded from health programmes for sex workers.

Community-based organisations, health promotion, HIV/STI prevention programmes, and services for sex workers, are proven to be most effective when they are sex worker-led and informed by sex workers' realities. US government funded programmes require grantees for international HIV and AIDS work to have a "policy opposing prostitution." This rule goes far beyond prescribing what organisations can do with government money: and extends to dictate what organisations can do or say in their privately funded work. This 'anti-prostitution pledge', a clause in all USAID contracts, has had a negative effect on the meaningful participation of sex workers in appropriate and effective service provisions for sex workers. Any such restriction that requires organisations to oppose the practice of prostitution is a barrier to sex worker-led organisations engaging in

advocacy and campaigns on vital law and policy reform, and the recognition of sex work as work. These are both essential to achieving universal health goals for sex workers. In June 2013 the Supreme Court ruled that the 'anti-prostitution pledge' was unconstitutional on the grounds that it violated the right of freedom of speech for US organisations. The Court's ruling preserves a 2006 preliminary injunction which exempted the plaintiffs from having the pledge enforced against them. However, all other recipients of US government HIV and AIDS funds, including international groups, remain subject to the requirement.

Other International funding bodies hold similarly discriminatory conditions for grantees including conditions that focus on sex workers 'exiting' sex work, and other programmes use the anti-prostitution pledge to discriminate against sex workers by not offering them services. Such funding restrictions negatively impact upon sex workers' health: sex workers must take an active role in the design, implementation, and evaluation of community health promotion and in HIV prevention and treatment programmes for sex workers.

6

Right to health

Sex workers have the fundamental right to:

- Non-discriminatory, affordable, and culturally-specific access to universal, quality health services. Based on a rights-based informed consent model, provision of services must include sexual and reproductive health services, drug harm reduction and treatment services, primary health care, treatment of chronic illness, medical interventions and surgeries, and a continuum of HIV and STI prevention, diagnostics, and treatment.
- Be free from mandatory or forced STI and HIV testing and treatment, forced sterilisation, and compulsory drug treatment.
- To develop, run, and have access to sex worker-led health and HIV programmes.
- Access to commodities for safer sex and drug use.
- Work and free choice of employment, including sex workers living with HIV.
- Be free from registration, including biometric tracking as a requirement to accessing healthcare services.

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- **Abolish the 100% Condom Use Programme (CUP)⁵**
- **End mandatory condom use, forced contraception, and forced or highly coercive sterilisation, termination of pregnancies, and compulsory drug treatment.**
- **Provide sex workers with access to the highest quality resources for the diagnosis and treatment of HIV and STIs.**
- **Amend legislation to remove clauses in funding contracts that require all grantees to endorse and follow an anti-prostitution policy in order to receive funding for health promotion and HIV prevention programmes for sex workers.**
- **Involve sex workers of all genders, of all ages, and from all work sectors including those living with HIV, in the planning, development, monitoring, evaluation, and implementation of health services.**
- **Provide universal sexual health and sexual rights education, including education about sex, sexuality, and gender identity.**
- **Develop and implement evidence-based and human rights-based programming for sex workers. The development of such programmes must include meaningful consultation with sex workers on issues including new prevention technologies, HIV programming, and other health services that aim to address the needs of sex workers.**
- **Resist TRIPS-plus measures in trade agreements that restrict access to life-saving treatment.**

⁵ The 100% CUP was introduced by the World Health Organization (WHO) and was first implemented in Thailand in 1991. Using police to increase condom use in brothels according to the Public Health policy, the Programme provided free condoms to brothel owners but not directly to sex workers. This increased employers' control over workers' health and safety, and clients were given condoms by owners but were not required to use them. The Programme established an agreement between Public Health and the police to not raid or punish brothels who cooperated, and consequently, the Programme also increased police power over sex workers and increased opportunity for corrupt police practices. Apart from receiving some basic HIV education, sex workers were not an active part of the Programme; this ultimately decreased sex workers' autonomy and ignored substandard and abusive working conditions. Whilst the 100% CUP is no longer promoted by WHO headquarters, the Programme is still used in some regional contexts often under a different name; these programmes include equally flawed principles such as highly coercive STI/HIV testing of sex workers.

7

Right to move and to migrate

SEX WORKERS MOVE AND MIGRATE FOR MANY PERSONAL AND FINANCIAL REASONS.

These include for adventure, curiosity, to visit family, find work, escape violence or disaster, study, marry, or to do business. Restrictive migration legislation and anti-prostitution policies contribute to the violation of migrant sex workers' rights, making migrant sex workers more vulnerable to abuse and exploitation.

Sex workers are denied access to legal channels of migration and their freedom of movement is compromised. Requests for visas are often met with extreme prejudice, especially for women and trans-people from lower and middle income countries. Many sex workers are undocumented because they are denied proof of identity; this exclusion extends to visas and other travel documents.

Discriminatory migration policies disadvantage sex workers. However these policies also create a global lack of opportunity for sex workers to migrate which creates greater dependence on third-party agents to travel. Consequently, this generates an environment where sex workers may be more susceptible to deception and abusive practices such as bribery or debt bondage. Because sex workers are limited in legal channels of migration, they can encounter abusive employers who exploit their insecure legal status within the country and provide unhealthy and unsafe work environments. These can include a loss of sexual autonomy, violence, rape, coercion, and bribery.

Sex workers are often turned away from borders, deported, or removed and denied the right to work in a country. These restrictions are based on discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national

or social origin, property, birth, class, ethnicity, gender and gender identity, sexual orientation, health status (including HIV), marital or other legal relationship status, citizenship or immigration status, physical mobility, mental health, or other status. Governments are often under constant pressure from other anti-sex work governments, feminist, and religious organisations, to redefine and widen definitions of ‘trafficking’. This situation means that many sex workers are captured within ever-expanding trafficking frameworks and are consequently classified as criminals or victims. Consequently, many sex workers do not enjoy freedom of movement.

The anti-trafficking framework also impacts upon sex workers through legislation that defines sex work as trafficking. Article 6 of the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires states to take “all appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women”. Indeed, enforcing such myths has resulted in oppressive and abusive anti-trafficking programmes against sex workers. When trafficking is the focus of law and policy, the exploitative working conditions and labour abuses that sex workers experience are often ignored and are subsequently made invisible.

Sex workers have the fundamental right to:

- **Leave their own country, request entry into another country, and have that request handled without prejudice.**
- **Return to their home countries and to request asylum when subjected to state/community violence or other human rights violations: sex workers must not be returned to dangerous situations.**
- **Move within their own city or country.**
- **Be free from arbitrary detention, deportation, or removal, particularly in the name of anti-trafficking efforts.**
- **Be free from slavery-like practices such as forced or bonded labour and servitude.**

7

Right to move and to migrate

NSWP demands that governments and responsible authorities take the following proactive measures to realise and respect this right:

- **Review immigration laws and policies that unfairly discriminate against sex workers and remove travel restrictions that prohibit sex workers from entering any country because of their sex work history.**
- **The development of sex worker-led economic empowerment programmes must be supported to ensure that sex workers have non-discriminatory access to credit, loans, and other financial and employment opportunities, that enable them to migrate safely if they choose to.**
- **Provide sex workers with safe, legal, and equal channels to migrate and obtain work visas for sex work or other work.**
- **Provide sex workers with multi-lingual information on visa applications and conditions, labour rights, human rights, justice mechanisms, and relevant laws in the country of origin and the country of destination.**
- **End anti-trafficking programmes that support ‘raid and rescue’ practices in sex work settings, and end forced rehabilitation programmes including forced drug rehabilitation.**
- **Consult with migrant and mobile sex workers to understand the realities of sex worker migration.**
- **Ensure access to health services and treatment for migrant sex workers.**



Right to work and free choice of employment

**IN MOST PARTS OF THE WORLD, SEX WORK IS NOT
RECOGNISED AS WORK OR AS AN OCCUPATION.**

This contributes to inhumane, harmful, and dangerous conditions for sex workers, whether they are self-employed or working for, or with, someone else. Sex workers often work in poor conditions that can include inadequate safety equipment or information, a lack of rest, food, security or hygiene, and a lack of job security when sick or pregnant, including a lack of financial support. Sex workers are also often under obligation to pay bribes or inflated prices to third parties, to consume alcohol or other drugs, or to work in an otherwise physically or psychologically unhealthy or unsafe environment.

Right to work and free choice of employment



Framing sex work as a crime, as violence, as inherently exploitative, or as a social condition, restricts sex workers' ability to be recognised as workers with human and labour rights. Although no international human rights law guarantees the right to sell sexual services (or engage in any other specific work), sex workers argue that the right to work derives from the right to liberty and the right to free choice of employment.

For over 40 years sex workers have argued that sex work is work and should be recognised as such. Some consider sex work as an occupation or livelihood; some consider sex work as an identity; others consider it a combination of all three. In all cases, the labour sex workers undertake is work.

In 1998, the International Labour Organization (ILO) adopted 4 fundamental principles and rights at work drawn from 8 conventions:

- “ Freedom of association and the effective recognition of the right to collective bargaining ”
- “ Elimination of all forms of forced or compulsory labour ”
- “ Effective abolition of child labour ”
- “ Elimination of discrimination in respect of employment and occupation ”

These fundamental principles obligate governments, employers, and workers' organisations to respect, protect, and fulfil these fundamental rights.

Sex workers have the fundamental right to:

- **Work and free choice of employment (including sex workers living with HIV).**
- **Regulatory frameworks that govern labour conditions and occupational health and safety. At a minimum, sex work must be consistent with the fundamental principles of the ILO and must receive the same rights and legal protections as other groups of workers.**
- **Safe and healthy workplaces in which sex workers are fairly compensated and treated with respect, and which are free from health hazards and abuse including sexual violence and physical violence.**
- **No discriminatory dismissal from employment based on sex work history.**
- **Equal access to labour codes and to other labour rights.**

We demand that governments and responsible authorities take the following proactive measures to realise and respect this right:

- **Repeal laws that criminalise the selling and purchasing of sexual services and third parties, families, partners, and friends.**
- **Recognise sex work as an occupation and its inclusion in ILO categorisation of occupations.**
- **Recognise that there is nothing inherently harmful or exploitative in buying or selling sexual services.**
- **Accept that sex workers of all genders and health status be allowed to work in the sex industry.**
- **Recognise that sex work must not be subjected to 'special' laws or extra taxes that serve to further restrict or exploit sex workers. Instead, sex work must be regulated by standard labour and business codes, including occupational health and safety standards.**
- **Support work-related social and financial entitlements including annual, sick, and parental leave, medical and parental benefits, accident compensation, pensions, and all other benefits enjoyed by other groups of workers.**
- **Accurate information about health and safety, including the provision of occupational health and safety standards, must also be provided.**



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