



Decriminalization of sex work is a means of securing human rights

A document in support of Amnesty International's proposal

The undersigned are organizations and individuals researching sex work in Brazil and/or supporting actions directed towards achieving human rights for the people engaged in sex work in Brazil. We offer our unrestricted support for Amnesty International's proposed policy in favor of the decriminalization of sex work.

We support Amnesty's assertion that states have an obligation 'to reform their laws and develop and implement systems and policies that eliminate discrimination against those engaging in sex work'. Amnesty calls on states to 'actively seek to empower the most marginalized in society, including through supporting the rights to freedom of association of those engaging in sex work, establishing frameworks that ensure access to appropriate, quality health services and safe working conditions and through combating discrimination or abuse based on sex, sexual orientation and/or gender identity or expression.' This echoes the voices of sex workers around the world, who argue that states are responsible for proactively protecting fundamental rights¹ and call on them to undertake measures that will help protect, respect, and fulfill these rights for all.²

In environments where many aspects of sex work are criminalized – including, for example, soliciting, living off the earnings of a sex worker (the latter generally penalizing families and children of sex workers the most), or other provisions criminalizing third parties³ — sex workers face discrimination and stigma which undermine their human rights, including to liberty, security of the person, equality, and health. Evidence suggests that sex workers' risk of HIV infection is inextricably related to their marginalized and illegal status, which drives their work underground and increases police abuse and exploitation.

According to the UNAIDS Guidance Note on HIV and Sex Work, "even where services are theoretically available, sex workers and their clients face substantial obstacles to accessing HIV prevention, treatment care and support, particularly where sex work is criminalized." In countries where sex work is decriminalized, there is evidence that violence directed at sex workers is reduced, relations between sex workers and the police are improved, and access to health services is increased.⁴

As organizations and individuals engaged with the issues surrounding sex work in Brazil, we feel that our country's experience has given us a unique perspective, which may aid Amnesty International in taking a decision on this issue. In spite of what is often claimed, sex work is not fully decriminalized in Brazil. In fact, Brazil is officially an abolitionist country which has signed every single international treaty regarding combating what was once known as "white slavery" and is now understood to be "trafficking in persons". The official position of Brazilian law has been that prostitution itself should be repressed but that women and men working as sex workers should not be criminalized. Thus, while there are no laws against the sale of sex, per

se, in our country, we have a series of laws which effectively criminalize sex workers' associates – most notoriously their partners, parents, roommates, friends, and even children under the guise of “repressing ruffianism”. These laws are used to harass and control sex workers, pushing them into geographic regions where they are “out of sight and out of mind” and into forms of sex work where they are often under the control of exploiters, with no recourse to legal protection. By threatening sex workers' families and associates, as well as those who rent to them or otherwise engage with them, our abolitionist laws have ensured that sex workers are not entitled to the protections and rights that are guaranteed in the Brazilian constitution.

Brazil's laws against rape, kidnapping, murder, domestic violence, sexual assault and slavery are more than sufficient to deal with cases of enslavement and violence in sex work, where they are honestly enforced. Its laws against “ruffianism” and “maintaining houses of prostitution”, while modeled on international abolitionist standards and in place and enforced since the early 20th century, have never ended or even significantly diminished sex work in our nation. They have, however, encouraged and empowered constant and on-going violence against sex workers, often – ironically – at the hands of the police.

An excellent example of this was the operation conducted by police in Niterói, Rio de Janeiro, shortly before the opening of the 2014 FIFA World Cup. Under the rubric of “repressing sexual exploitation and ruffianism”, the police invaded the “Caixa Federal” building, detained and then illegally evicted close to 100 sex workers. No “exploiters” were found during this raid, but all of the property of the women involved was confiscated and never returned. Several of the women allege that police beat and raped them during the raid. One of these has subsequently testified before the State Assembly of Rio de Janeiro, with the support of Amnesty International, Brazil. As of yet, no measures have been taken against the police involved in the raid, nor is their conduct under investigation. The sex worker who testified against the operation, however, has since had her life and the lives of members of her family repeatedly threatened by men she identifies as police agents⁵.

The Niterói case is, unfortunately, not an isolated case. Police in Brazil have a well-documented reputation for violence, incompetence, corruption and general lawless behavior that has been well-documented by Amnesty International over the years. Civil society's ability to ensure the oversight of police behaviors, necessary for the protection of democratic and human rights, is fatally hampered by police impunity⁶. This has resulted in a law enforcement environment where more than 50,000 people are murdered every year, but only 5-8% of these homicides result in completed criminal cases – more than two thousand of these deaths occur at the hands of the police themselves⁷. Furthermore, research by prostitutes' rights groups and anthropologists have revealed that the police themselves have often been complicit in organizing sex work in Brazil – and in taking a cut of the proceeds, either directly for the State through fines or indirectly, through bribes and blackmail.

To feel that criminalization of the sale or purchase of sex can somehow result in the improvement of human rights – in Brazil or in any country – is a dangerous fantasy which should be opposed by Amnesty International and all other groups that support human rights and democracy. As a clear indication of the failure of prohibitionist policies, which employ hypercriminalization and violent police intervention to “attack demand”, we point to the results of the “War on Drugs”. The same arguments apply to attempts to prohibit sex work.

We, the undersigned, thus respectfully support Amnesty International's brave step towards initiating the struggle for a sex work policy that supports the human rights of those involved in sex work, calling for the complete decriminalization of sex work, as the movement of Brazilian sex workers has itself demanded for many years.

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Endnotes

¹ Eight rights that have been recognized and ratified by most countries as fundamental human rights and that are established in various international human rights treaties, as well as national constitutions.

² <http://www.nswp.org/sites/nswp.org/files/ConStat%20PDF%20EngSum.pdf>

³ http://www.sangram.org/resources/sex_work_and_laws_in_south_asia.pdf

⁴ Prostitution Law Review Committee. Report of the Prostitution Law Review Committee on the operation of the Prostitution Reform Act 2003. Wellington, NZ; Ministry of Justice: 2008

⁵ <https://www.youtube.com/watch?v=rHwQis5iDxQ>

⁶ <https://www.amnesty.org/en/countries/americas/brazil/report-brazil/>, <https://www.amnesty.org/en/latest/news/2014/06/brazil-dangerous-brew-police-abuses-and-impunity-threatens-mar-world-cup/>

⁷ http://www.forumseguranca.org.br/storage/download/anuario_2014_20150309.pdf, <http://www.cartacapital.com.br/sociedade/violencia-brasil-mata-82-jovens-por-dia-5716.html>