

Sex workers deprived of liberty in Europe and Central Asia

Submission from the International Committee on the Rights of Sex Workers in Europe (ICRSE) to the UN Working Group on the issue of discrimination against women in law and in practice

About the contributor

The International Committee on the Rights of Sex Workers in Europe (ICRSE) is a sex worker-led network representing more than 85 organisations led by or working with sex workers in 30 countries in Europe and Central Asia, as well as 150 individuals including sex workers, academics, trade unionists, human-rights advocates, and women's rights and LGBT rights activists. ICRSE opposes the criminalisation of sex work and calls for the removal of all punitive laws and regulations regarding and related to sex work as a necessary step to ensure that governments uphold the human rights of sex workers. As long as sex work is criminalised – directly or indirectly through laws and practices targeting sex workers, clients, or third parties – sex workers will be at increased risk of violence (including police violence), arrests, blackmail, deportations and other human rights violations.

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Overpolicing and discriminatory profiling

Sex workers in Europe and Central Asia face an epidemic of violence across the region, from various parties, including police, immigration authorities, people posing as clients and their immediate environment. Law enforcement, immigration authorities and criminal justice systems are often a great part of the problem. Discriminatory policing, profiling and surveillance by authorities manifests itself in continuously enforced practices affecting diverse communities of sex workers the region, especially endangering gender non-conforming people, racial and ethnic minorities, migrant sex workers, people who use drugs and those affected by poverty and homelessness. Members of these communities and those who face multiple or intersectional oppression are exposed to elevated levels of police violence and as a consequence disproportionate (pre-trial) detention and imprisonment.

Criminalising and repressive laws and legal instruments related to sex work are among the main factors leading to over-policing and over-imprisonment of this group.¹ Although sex work laws vary to a great extent in the region, from being punishable by fines or imprisonment to being legalised, sex worker communities, especially migrant and

¹ Several United Nations agencies have denounced criminalising and repressive laws against sex workers, such as the United Nations Development Programme (UNDP), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), United Nations Population Fund (UNFPA), the World Health Organisation (WHO), and the United Nations Joint Programme on HIV/AIDS (UNAIDS).

street-based workers, continue to face daily harassment and mistreatment from authorities across the region.

In countries where selling sex is an administrative or criminal offense, police routinely target street-based sex workers and their clients based on sex work laws. Sex workers across the region are usually arrested for being at hotspots or cruising areas, where they solicit. For example, evidence from Serbia shows that even in these criminalised environments, arrests can be arbitrary as police solely base their arrests on activities associated with sex work, such as “loitering” at locations where sex workers usually solicit clients, “offering” services to passers-by or “waiting” for clients at a location where sex workers usually gather, followed by the possession of condoms, without any further substantiation, except for the police officers’ interpretation of these activities.²

The targeting of sex workers not only occurs at their workplaces, but also outside of them, manifesting itself in gender and racial profiling. Sex workers from Central-Eastern Europe and Central-Asia report that they are policed even when they are not working. Roma cis-women for instance, report facing constant harassment from the police in their daily lives³, while Chinese sex workers in Paris, France report that often they are afraid to leave their home and workplaces due to the fear of police targeting based on their migration status.⁴

Besides sex work-related administrative and criminal laws, other legal instruments are evidenced to be routinely used against sex workers, such as **traffic regulations, public morality and public order petty offenses**. In Georgia for instance, an outdated administrative offense code, operating with vague definitions of “hooliganism” and adopted by the Soviet government in 1984, is used to target trans people, among them sex workers.⁵ In cases of sexual harassment and physical abuse occurring in public spaces, police response is not only lacking but, in many cases, police arrest the victims themselves. Victims of such mistreatment are mostly trans women. The victims say that police do not respond to cases of violence committed against them, and when the victims of violence protest the inaction of the police, the police arrests them on a ground of petty hooliganism or resistance to legal order.

² Baros, S., Radovic, I., Plecas, S., Drezga, E., Wijers, M. & Vasic, M. (2016). Law Above All and Court Practices: Impact of the criminalization of sex work on the human rights of sex workers and trafficked persons in Serbia. Available: https://www.researchgate.net/publication/313509669_Law_Above_All_and_Court_Practices_Impact_of_the_criminalization_of_sex_work_on_the_human_rights_of_sex_workers_and_trafficked_persons_in_Serbia_Prava_iznad_svega_i_sudska_praksa_Uticaj_kriminalizacije/download

³ Sex Workers’ Rights Advocacy Network (SWAN) (2015). Failures of Justice. State and Non-State Violence Against Sex Workers and the Search for Safety and Redress. Budapest: Sex Workers’ Rights Advocacy Network (SWAN). Retrieved from: <http://www.swannet.org/files/swannet/FailuresOfJusticeEng.pdf>

⁴ See testimonies collected by STRASS, the French Sex Worker Union: <http://strass-syndicat.org/harcelement-policier-a-belleville-temoignages/>

⁵ Women’s Initiatives Supporting Group (WISG) (2017). Unidentified Violence – Litigation Report. Available: http://women.ge/data/docs/publications/WISG-Unidentified_Violence_2017.pdf

Similar incidents concerning trans sex workers have been reported from Kyrgyzstan, using the administrative offense of hooliganism against them.⁶ Trans sex workers in Turkey report overpolicing as well: 76% of the trans respondents of a community survey claimed that they were constantly harassed by the police and 71% have been detained at least once in their lifetime.⁷

In Hungary, street-based Roma female sex workers are routinely targeted by the police with fines in order to fill their quotas. Sex workers are frequently charged with offences they did not commit, such as littering or violating pedestrian or traffic regulations. Due to the lack of clarity around the sex work law which defines “protected” zones where soliciting is illegal, sex workers generally do not know if they are standing in a protected zone or not, and thus, do not know if they are committing an offence or not, they usually sign the tickets rather than contest, out of fear that otherwise they will be given the more serious charge of being in a protected zone and taken into detention. After receiving multiple fines in a certain period of time, fines are aggregated and the court turns these bigger amounts of accumulated fines into the sentence of imprisonment, which can last for more than a year.⁸

Raids targeting sex workers are common even in contexts where selling sex is not illegal. In Kyrgyzstan for instance, sex work does not constitute an administrative or criminal offense. Police attitudes and actions, however, are often fuelled by their superiors or even politicians. In 2017 for instance, several police raids took place after the Minister of Internal Affairs had made a statement about cleaning the city of sex workers. Sex workers were detained and exposed to humiliation and mockery at the police station.⁹ Journalists were invited to film trans sex workers on camera without concealing their identities, illustrating the trend in the post-Soviet region of using the Internet and media platforms to humiliate and out trans people, as demonstrated by numerous recorded incidents from Siberia, Russia.¹⁰

Police violence is one of the most pressing concerns for sex workers globally and in the region as well. In Europe and Central Asia, sex workers report alarmingly high levels of physical or sexual violence from police officers. In a research study by the Sex Workers’ Rights Advocacy Network (SWAN), 41.7 percent of sex worker respondents reported having experienced physical violence by police in the year before the survey and 36.5 percent reported having experienced sexual violence from police in the same time span.¹¹ Seizure of condoms and safe injecting equipment and forced HIV and STI testing practices have also been documented to occur in the region during arrest and detention of sex workers.¹²

⁶ Transgender Europe (2018). Deprived of liberty, deprived of rights. A community report on policing and detention of trans people in the CEECA region. Upcoming.

⁷ Ördek, K. (2014). Violence directed towards sex worker trans women in Turkey. Available upon request.

⁸ SZEXE (2013). Report on Violence and Discrimination against Female Sex Workers by State and Non-State Actors in Hungary. A submission to the UN CEDAW Committee. Available: <http://www.nswp.org/sites/nswp.org/files/SZEXE%20shadow%20CEDAW%2054%202013.pdf>

⁹ Transgender Europe (2018).

¹⁰ Ibid.

¹¹ SWAN (2015).

¹² Ibid.

Migrant sex workers and obstacles to accessing justice

One particularly vulnerable group amongst sex workers is (undocumented) migrants. Unexpected raids on sex worker venues, often part of anti-trafficking strategies, cause trauma and an inability to continue working, and for undocumented workers, they frequently lead to detention and deportation.¹³ On many occasions, there is no mechanism available for trafficked persons that guarantees the return of their property or compensation for human rights violations committed against them.¹⁴ Evidence also shows that police raid and rescue operations often result in migrant sex workers having to work clandestinely, rendering them particularly vulnerable to exploitation and abuse.¹⁵

Case study 1, United Kingdom:

During a 2016 police anti-trafficking action targeting six premises in Chinatown and Soho, London (UK) where sex workers were working, 18 people were arrested. Out of them, 12 have been removed on immigration grounds, six for other offences. Thai women were particularly targeted.

Westminster police placed closure notices on the doors of premises and forcibly evicted women during the raid. According to the police, the actions aimed at targeting “suspected brothels” and looking for trafficked women. In reality however, no victims of trafficking were identified.¹⁶

Case study 2, France:

In France, following the introduction of the criminalisation of clients (“Swedish model”) in 2016, sex workers remained indirectly criminalised by municipal by-laws and regular identity checks aimed at them. According to a study on the impact of the law¹⁷, sex workers do not see police as a source of protection. Sex workers frequently report about episodes of intimidation by the police including being pressured to report clients and, if undocumented, threatened with deportation if they do not comply.

¹³ International Committee on the Rights of Sex Workers in Europe (2016). Surveilled. Exploited. Deported. Rights Violations Against Migrant Sex Workers in Europe and Central Asia. Available: http://www.sexworkeurope.org/sites/default/files/userfiles/files/ICRSE_Briefing%20paper_MIGRANTS%20RIGHTS_November2016_A4_PRINT.pdf

¹⁴ X:talk project (2010). Human rights, sex work and the challenge of trafficking. Human rights impact assessment of anti-trafficking policy in the UK. <http://www.xtalkproject.net/wp-content/uploads/2010/12/reportfinal1.pdf>

¹⁵ International Committee on the Rights of Sex Workers in Europe (ICRSE) (2016). Exploitation. Unfair labour arrangements and precarious working conditions in the sex industry. http://www.sexworkeurope.org/sites/default/files/userfiles/files/ICRSE_Exploitation%20Report_April2016_04_final.pdf

¹⁶ <http://prostitutescollective.net/2016/10/action-protest-raids-sex-workers-undermine-safety/>

¹⁷ Le Bail, H. and Giametta, C. (2018). A Study on the Impact of the Law from 13 April 2016 Against the ‘Prostitution System’ in France. Synthesis. Available: <https://www.medecinsdumonde.org/sites/default/files/ENGLISH-Synth%C3%A8se-Rapport-prostitutio n-BD.PDF>

In recent years, administrative detention and deportation have become primary tools in European governments' fight against irregular migration, having devastating impact on undocumented migrant sex workers. Not only are detention conditions for foreigners often described as being of a lower standard than other penal institutions, but abuse, physical and sexual assault and even torture have also been frequently reported along with high rates of suicidal thoughts and depression among detained migrants forcibly held in these settings. Similarly to prisons, detention centres also face serious overcrowding and often do not provide sufficient access to food and drinking water and lack appropriate sanitary conditions.

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Although no systematic evidence is available on the issue, sex workers held in detention might be disproportionately affected by limited access to HIV treatment and medication, given high HIV prevalence rates amongst them.¹⁹ Lengthy waiting times for essential medication such as anti-depressants and anti-retroviral (ARV) treatment have been reported in the UK for instance.²⁰ Similarly, trans detainees in detention centres, amongst them those who had been identified during anti-sex work or anti-trafficking raids, face particular challenges to treatment, for instance the discontinuation of their hormonal therapy, which leads not only to emotional distress but has a direct effect on their mental and physical well-being. Threats of violence in detention, having to share bedrooms and communal showers with other detainees or being held in facilities according to their legal sex instead of considering their gender identity²¹ is another grave concern and is in contradiction with the principles set in the Yogyakarta Principles.²²

¹⁸ Redress Information and Analysis, 2015, Criminalising refugees: the disgrace of Britain's immigration detention centres, <http://www.redressonline.com/2015/09/criminalising-refugeesthe-disgrace-of-britains-immigration-detention-centres/>

¹⁹ See the Lancet Journal's series on HIV and sex work: <https://www.thelancet.com/series/HIV-and-sex-workers>

²⁰ UK Lesbian and Gay Immigration Group (UKLGIG) (2018). UKLGIG submission to Home Affairs Committee inquiry into Immigration Detention. Available: https://uklgig.org.uk/?page_id=1225

²¹ UK Lesbian and Gay Immigration Group (UKLGIG) and Stonewall (2016). No safe refuge. Experiences of LGBT asylum seekers in detention. Available:

https://uklgig.org.uk/wp-content/uploads/2017/03/no_safe_refuge.pdf

²² Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles. Available: <http://yogyakartaprinciples.org/principles-en/yp10/>