



NEW POSITION PAPER

**SEX WORKER RIGHTS
ARE
HUMAN RIGHTS**

This position paper was developed in response to the fact that sex workers, including LGBT sex workers, continue to face criminalization, violence, discrimination and other forms of human rights violations in the EECA region.

ECOM uses the term «sex work» only in relation to consensual transactions between persons over the age of eighteen. The term «sex worker» is used to refer to sex workers, including cisgender women and men, and trans people, who receive monetary or other forms of compensation in exchange for sexual favors on a regular or periodic basis. The term «sex worker» should not be used in relation to people who have been forced to sell sex or who sell sex against their will. This avoids conflating sex work and human trafficking, or confusing sex workers with people who have been trafficked for the purpose of sexual exploitation¹. Human trafficking is a serious violation of human rights and should be prosecuted.

Sex workers around the world face multiple violations of their human rights². Various intersecting forms of discrimination and structural inequalities affect the lives of many sex workers, in particular their decision to enter or continue sex work.

In most countries of Eastern Europe and Central Asia, sex work is often partially or fully criminalized. Punishment under administrative and criminal legislation exists in countries such as Georgia, Moldova, Russian Federation, Tajikistan, and Ukraine³. Russian legislation provides for an administrative fine for engaging in sex work, while organizing sex work may result in imprisonment. In Georgia, sex work is an administrative offense. Organizing sex work is criminalized in Kyrgyzstan.

In addition, LGBT sex workers are also being prosecuted under laws that criminalize consensual same-sex sexual activity in two countries in our region, Turkmenistan and Uzbekistan, where consensual same-sex activity between men is a criminal offense⁴.

In addition to being marginalized on the basis of gender and/or other identity or HIV-positive status, sex workers are often stigmatized, blamed, and condemned for engaging in sex work, which others perceive as violating social and sexual norms and/or gender stereotypes⁵. Lesbian, gay, bisexual and trans (LGBT) sex workers face intersectional discrimination and marginalization. The number of transgender sex workers is disproportionately large compared to the number of cisgender women engaging in the same activity⁶.

¹ Sex Work and the Law in Asia and the Pacific. UNAIDS / UNFPA / UNDP. 2012 <https://www.undp.org/sites/g/files/zskgke326/files/publications/HIV-2012-SexWorkAndLaw.pdf>

² Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers. 2016. <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

³ Законодательство в отношении секс-работы в Центральной и Восточной Европе и Центральной Азии (ЦВЕЦА) https://www.swannet.org/files/swannet/SWLegalFrameRUS_web_0.pdf. SWAN 2019

⁴ Report: «Будто на другой планете: геи, бисексуальные мужчины и транс* люди подвергаются насилию, тюремному заключению и дискриминации в Узбекистане». ECOM. 2022. <https://ecom.ngo/library/otchet-budto-na-drugoy-planete-gei-biseksualjnie-mujchini-i-transludi-podvergautsya-nasiliju-turemnomu-zaklucheniu-i-diskriminatsii-v-uzbekistane>

⁵ Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers. 2016. <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

⁶ One study showed that 43% of transgender people have experience with sex work. See V. L. Hounsfield, et al., 'Transgender people attending Sydney sexual health services over a 16 year period', Sex Health, 4, 2007; According to another national study conducted in the USA, the proportion of transgender sex workers is 10 times higher than the proportion of sex workers among the total number of cisgender women.

For instance, a study in Kyrgyzstan showed that 73% of trans women respondents were employed only in sex work. Respondents named two interrelated reasons that pushed them into sex work: problems finding employment, including due to their gender identity, and the need to earn money for their basic needs, including hormone therapy⁷.

The criminalization and punishment of sex work negatively affect a number of human rights, and reinforce stigma, discrimination, negative attitudes, and myths about sex workers. In general, the criminalization of sex work tends to force sex workers to conduct their activities in unsafe places, leaving them at even higher risk of violence and abuse. Studies across countries have shown that criminalization makes sex workers more vulnerable to violence, including rape, assault, and murder by perpetrators who view sex workers as easy targets because they are stigmatized and unlikely to get help from police⁸.

In the vast majority of cases where sex workers are victims of the criminal acts of others, they do not contact law enforcement agencies, and if they do file a complaint, then the likelihood of that the crime is investigated and solved is extremely small.

The criminalization of sex work leads to the abuse and exploitation of sex workers by law enforcement officials themselves. It is not uncommon for police officers to harass sex workers, extort bribes from them, blackmail them, physically and verbally abuse them, or even rape or force them into sex.

The stigma and discrimination associated with sex work and the criminalization of sex work also negatively affect sex workers' right to health and access to information about health services. The criminalization of sex work, and restrictive laws, regulations and practices contrary to human rights hinder the fight against the spread of HIV. The burden of HIV among sex workers is 10 times higher than among the general population⁹.

States have an obligation to comply with international human rights standards as reflected in the Universal Declaration of Human Rights and other fundamental human rights instruments¹⁰. Sex workers have the right to recognition of their fundamental human rights (regardless of domestic laws criminalizing sex work), including the right to non-discrimination and equality before the law under the International Covenant on Civil and Political Rights, and the right to the highest attainable standard of health (including HIV prevention, treatment, care and support) in accordance with the International Covenant on Economic, Social and Cultural Rights. This international instrument also obliges states to grant people the right to decent work under fair and favorable working conditions. Everyone has the right to privacy, freedom, autonomy, to be free from violence and arbitrary arrest, and to free choice of employment.

⁷ Study "Вызовы и барьеры в миграции как последствия экономической уязвимости транс* женщин в Кыргызской Республике", РО "Kyrgyz Indigo". 2019.

⁸ Why Sex Work Should Be Decriminalized. HRW. 2019. <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>


⁹ Protecting the rights of sex workers. 2017. https://www.unaids.org/en/resources/presscentre/featurestories/2017/june/20170602_sexwork


¹⁰ Universal Declaration of Human Rights (1948); International Covenant on Civil and Political Rights (1966); International Covenant on Economic, Social and Cultural Rights (1966); Convention on the Elimination of All Forms of Discrimination against Women (1979); Convention on the Rights of the Child (1989); Convention on the Rights of Persons with Disabilities (2006).


States must combat discrimination and promote equality, and take steps to change the dominant cultural and social attitudes upon which discrimination is based¹¹. In addition, states should work to eliminate harmful gender stereotypes and other prejudices based on the idea of the superiority of men over women, and on the stereotyped roles of men and women. They should also eliminate stereotypes that support structural inequalities, thereby limiting or eliminating the possibility of exercising the human rights and fundamental freedoms of women and all other groups and categories subject to discrimination¹². Immediate measures may include amending discriminatory laws, policies and practices; strengthening the powers and capacity of public institutions and bodies tasked with ensuring equality and combating discrimination; as well as informational and educational programs and initiatives on human rights, especially for populations that are discriminated against and marginalized.


 ***ECOM works to make the intersectional identities of LGBT people visible, and strives to fully accommodate their needs and perspectives.***


 ***ECOM advocates for the realization of the human rights of sex workers, and strives to take into account the interests and needs of LGBT sex workers in EECA in its work.***


 ***ECOM advocates for the provision of human rights-based social and health services for LGBT people, for freedom from violence and discrimination, and for the right of sex workers to self-determination.***

 ***ECOM urges states to comply with international human rights standards and, in accordance with them, ensure the protection of the rights of sex workers.***

 ***ECOM calls for the complete decriminalization of sex work.***

 ***ECOM recommends adopting comprehensive anti-discrimination legislation that includes all protected grounds, including sexual orientation and gender identity.***

 ***ECOM believes that states have an obligation to provide full and equal legal protection and remedies for sex workers, including in cases of rape and sexual violence, abuse of power, assault, extortion and other crimes.***

 ***ECOM believes that states should take all necessary measures to change social and cultural practices and stereotypes, including gender stereotypes, upon which social inequality and discrimination are based.***

¹¹ Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers. 2016. <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

¹² CEDAW General recommendation No. 35 on gender-based violence against women, updating general recommendation <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/231/54/PDF/N1723154.pdf?OpenElement>

