

## **Summary of Amnesty International Research Findings**

In June 2014 the Chairs Assembly and Directors Forum (CA/DF) directed the International Secretariat (IS) to conduct country-based research on the human rights impact of criminalisation of sex work. Between September 2014 and June 2015, the IS (together with support from relevant Sections) produced four research reports that explore the situation in high, middle and low-income countries across four regions. Research was conducted in Argentina (with a focus on the Autonomous City of Buenos Aires (CABA), Hong Kong, Norway (with a focus on Oslo) and Papua New Guinea (PNG). AI conducted interviews with over 80 sex workers and numerous others with NGOs, activists, law enforcement and government officials.

This document provides a summary of the overarching findings from these research projects. The findings of these projects are highly relevant for delegates taking part in the ICM discussion on a draft policy on the human rights of sex workers. The full reports, including executive summaries, are available at:

<https://intranet.amnesty.org/wiki/display/ILPD/Sex+Work+Policy>  
Delegates should request access to the wiki-space through Section Directors.

## **Key Findings**

### **1. Criminalisation of sex work compounds stigma and discrimination against sex workers**

AI found that sex workers face high levels of stigma and discrimination and that the “criminal” status placed on them by an array of different sex work laws, compounds prejudice against them. Sex workers are frequently shamed and marginalised on the basis of their occupation- by police, friends, family, other private individuals, providers of public services such as healthcare and by alternative employers. This stigmatisation can impact nearly every aspect of their lives and severely impedes the realisation of their human rights. In particular, the “othering” of sex workers through criminalisation sets them apart from communities and at odds with police, increasing the risk of violence against them and offering relative impunity to their abusers. In all of the countries visited, AI found that government and law enforcement were not adequately focused on the protection of sex workers from violence, or on the impact that laws and policies have on their human rights, but instead on prohibition of sex work through enforcement of criminal law.

In Norway, sex workers frequently told AI about negative experiences they had had with members of the public. The discrimination that women described was often interwoven

with racism and anti-migrant sentiment.

*“The police do what the masses want. People in the street say ‘go back to your monkeys.’”*

*“It’s mostly women [but] sometimes men who insult us. It’s happened lots of times. ‘You prostitute go back to your own country’. ‘Fuck off out of my sight.’”*

*“When they see you in the street they say ‘fuck off’. They don’t think you are a human being.”*

*“I hope in many years they will respect us like other people.”*

One woman told AI about how she had been blocked from returning to work by two regular employers in industries outside sex work. When she queried why they were no longer prepared to hire her, they cited the fact that people knew she was a sex worker- telling her they didn’t want an “image problem” saying: “*Can you imagine what they’d say about us if we hired you again?*”

In PNG, AI learned how women, particularly sex workers, who choose their sexual partners or who have multiple sexual partners are at risk of violence for defying cultural expectations and societal norms, and for potentially causing the family to lose income in the form of “bride price.”

*“It [sex work] is illegal as PNG culture is very strict. Police hit us, chase us, say sex work is not allowed in PNG. We say you are not going to feed us, clothe us, help our children so we need to do this. We fight for our rights. It’s the only way to benefit and live.”*

*“It’s illegal due to our tradition, culture, but they must understand the circumstances and the current life we are facing.”*

Sex workers were also stigmatised as being “spreaders” of HIV; discouraging them from obtaining sexual and reproductive health information and services. A sex worker in Port Moresby, PNG indicated that the manner in which sex workers were treated when accessing health care made them reluctant to return. The behaviour of nurses and other staff prevents them from going back, she said, and while the rest of the public is treated fairly, sex workers are gossiped about and judged.

Sex workers interviewed by AI in CABA reported being judged by health care providers and/or otherwise treated in ways that were not medically indicated. For example, one sex worker recalled a traumatising experience attending hospital after a condom broke during sex with a client. Rather than being provided standard sexual and reproductive health services, she

was sent directly to the Infectious Diseases Unit. She said that: *“I run out of there crying . . . and, well, I went to another centre and they took out of me the broken piece . . . .”*

A transgender former sex worker recounted that:

*“Whenever I was sick I went to the hospital but people always mistreated us. They told us to go to other hospital[s] because they couldn’t treat us there or something like that. That’s why most of us didn’t go to hospitals. . . . We also used to medicate each other; recommending pills to take and stuff like that. We didn’t have any real access to health care services because whenever we went to hospitals we were laughed at or the last ones to be attended to by doctors.”*

## **2. Sex workers are criminalised and negatively affected by a range of sex work laws—not just those on the direct sale of sex**

AI’s research indicates that even when the sale of sex is not explicitly criminalised, laws that criminalise activities related to sex work, such as bans on buying sex or on solicitation, promotion, brothel keeping or other operational aspects of sex work, are frequently used to criminalise sex workers and/or work in effect to make their working environments more dangerous.

In the CABA, the law regulating street-based sex work does not ban the sale of sex, rather it aims to prevent “public nuisance” by criminalising the “ostentatious”<sup>37</sup> offer and demand of sex in public places. Under this law sex workers are repeatedly stopped and asked to show identification, and can be subjected to fines and probation. While it is unlawful for police to consider individuals’ dress, appearance or mannerisms when enforcing this law, AI found that this type of profiling frequently occurs and is often the basis for police stops and citations. Notably, transgender sex workers receive the majority of citations, while clients of sex workers are rarely, if ever, cited.

AI also found that indoor sex workers in the CABA are being harassed through “code inspections” conducted by municipal authorities or police. The legal basis for these raids is unclear as sex workers are unable to register their services as a business under the law. These code inspections disperse sex workers from the safe work spaces they have established, to more uncertain environments. They also hold sex workers

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<sup>37</sup> There is no clear definition of what qualifies as “ostentatious” offer and demand of sex. The term is generally defined as a vulgar or pretentious display, and/or attempting to impress or attract notice.

responsible for operating businesses whilst simultaneously denying them the right to work legally or access labour protections. Laws which criminalise advertising for sexual services in the CABA primarily impact indoor sex workers, leading some to resort to selling sex in the streets, in more precarious, less safe conditions.

The act of selling sex is not illegal in Hong Kong, and many sex workers AI spoke to were careful to operate in ways that comply with the law. Nevertheless, many of the activities associated with sex work are illegal. Sex workers can be prosecuted for soliciting customers, for sharing premises with other sex workers, and for living off the proceeds of sex work. One scholar has described the legal framework adopted in Hong Kong as “a prohibition in all but the narrowest sense.”<sup>38</sup> Those who work on the street are at particular risk of arrest because they are easy to identify and have difficulty operating without violating the prohibition on solicitation.

When two or more sex workers work together in Hong Kong, police consider the apartment a “vice establishment,” or brothel, in violation of the law. AI found that police induce sex workers to fall foul of the requirement that they must work alone. Kendy Yim, from local NGO Action for Reach Out, told us: “The police will set up the girl. An undercover cop will ring the bell and ask her to invite another girl to have a threesome. This becomes a vice establishment, and she’s charged with managing a vice establishment.”

A police initiative that ran until 2011 in Oslo, Norway called “Operation Homeless” focused on increased enforcement of the law against “promotion” of sex work—specifically the subsection that makes it an offence to “let premises . . . for prostitution.” This led to the systematic and rapid eviction of many sex workers from their places of work and homes. For example, the police told AI that the vast majority of massage parlours were closed in Oslo using this mechanism in 2009, following a period of increased enforcement. Based on AI findings, this practice is still a common feature of the police response to sex work in Oslo. In particular, migrant street-based sex workers repeatedly spoke about being forcibly removed from their homes with little to no notice or time given to collect their belongings.

Many of the sex workers in Norway that AI spoke to talked about being able to work with others as a means to increase safety, regardless of whether they were street and/or indoor based. However, under the “promotion” section of the penal code (202) this is effectively illegal. Working together also

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<sup>38</sup> Nga Yan Cheung, “Accounting for and Managing Risk in Sex Work: A Study of Female Sex Workers in Hong Kong,” Ph. D. thesis, University of London, 2011, p. 54.

increased the likelihood of police raids and subsequent evictions as this would be viewed by police as “organised prostitution.” One indoor sex worker told AI:

*“I was asking a guy who owns a security firm. I asked can I rent a bodyguard to take me to an outcall, wait for me and take me back. He said ‘If I do that I will lose my license.’ I was so shocked. So every other person in Norway can rent a bodyguard- except me because I am a sex worker. Why? I am not a criminal.”*

Many of the sex workers that AI interviewed in Norway also talked about high levels of anxiety and nervousness among buyers about being caught and fined by the police. Most of the sex workers we spoke with reported being asked to visit buyer’s homes to protect them from detection by the police. Street-based sex workers that AI spoke with were most likely to agree to this because they face discriminatory exclusions from hotels under the ‘promotion’ law, they feared eviction by police if they brought clients to their own homes and they needed to make money.

*“Customers can’t hurt you so much [at home]. I’m more relaxed there. It’s more dangerous going to a customer’s house. I went to a house of a man- he tried not to pay me so much. He punched me two times in the jaw. I didn’t tell the police. If he had broke much I would have told them. But I don’t want it on my records.”*

*“Customers want to go to their place. You have to be calm. If he hurts you there is no-one there to rescue you.”*

*“Some customers can hurt you at their apartments. They can hurt you because they know we are too scared to go to the police. We have to obey their rules because we are in their house. We can’t bring them to ours.”*

*“When you go to a customer’s house there could be five of them there.”*

### **3. Criminalisation gives police impunity to abuse sex workers and acts as a major barrier to police protection for sex workers**

Police abuse featured in research findings in the CABA, Hong Kong and PNG. For example, in PNG AI found that police extort money from, rape and sexually abuse sex workers, often with impunity. In the CABA, police collect bribes to give sex workers and “third parties” notice that they plan to raid or “inspect” apartments where sex work is suspected, and/or commit violence and theft during these raids. In Hong Kong, police extort money and coerce sex workers into sex by telling them

that it is the only way they can avoid legal sanctions.

The majority of sex workers that AI spoke to did not, or were reluctant to, seek police protection from or redress for, violence and crime. In some countries this can be due to the fact that police are often the perpetrators of such crime. Because of their criminalised status, sex workers often fear prosecution or punishment if they go to the police, believe that no action will be taken to help them seek justice, and/or fear that they will lose their livelihood as a result of subsequent police action. The police also do not commonly see it as their priority to contribute to making sex work safer, rather—they are tasked with its eradication.

A sex worker in PNG told AI that when she tried to report abuse by a client to the police, they told her they did not want to “waste time” on sex workers. When she later faced abuse, she did not bother reporting it to the police, explaining that: *“If I am abused and I go to the police, they’ll tell me, ‘that’s what you deserve.’”*

A homeless sex worker in Port Moresby described being gang raped by police officers in August 2012; after which she and her client were “fined” 600PGK by the perpetrators:

*“It was 6pm, I was having sex with one of my friends [clients] at Jack Perry Park in a bus. Police start to beat my friend and me. They tried to make me do group sex with the six policemen. Then they told me to suck my friend’s dick. Six police officers did sex to me one by one. They were armed with guns, so I had to do it. I don’t have any support to come to court and report them. It was so painful to me, but then I let it go. If I go to the law, they cannot help me as sex work is against the law in PNG. The police have the law to do that.”*

Sex workers in Hong Kong face entrapment, extortion and coercive police interrogations. Notably, the Hong Kong Women’s Coalition on Equal Opportunities confirmed that: *“Police officers, during undercover operations, are allowed to solicit sex workers to perform certain sexual services [in order to secure evidence].”*

AI did not find substantive evidence of police violence towards sex workers in Norway. However, the practice of evicting sex workers from their homes under the “promotion” law and the criminalisation of clients was regularly identified by sex workers as reasons why they would not report crimes to the police.

In order to evict sex workers under the “promotion law,” Norwegian police must identify sex workers, where they live or work and ascertain whether they are selling sex from those locations. In most cases this information is then used by police

to threaten landlords with prosecution, who then rapidly evict sex workers.

AI learned of a number of methods used by the police to identify sex workers. These include document checks of women in the areas where street-based sex work occurs and police contacting sex workers through advertisements and posing as potential customers. Police and sex workers also confirmed that sex workers are identified by police following the reporting of crimes, including reports by sex workers of crimes against them. AI interviewed a number of people involved in a recent case where a number of migrant sex workers were violently attacked and raped in the apartment in which they lived by individuals posing as police officers. They reported the incident to police and spent the next two nights in hospital and a hotel. They told us that they returned to their apartment to find the police had removed all their money and electronic equipment. Four days after the attack they were forcibly evicted by their landlord who gave them only a few hours to leave.

Other sex workers in Norway told us about how reporting violence to the police represented too much of a risk in terms of losing their livelihood:

*“Most clients are nice and don't give me a problem. I've worked for a long time in sex work. Before I close a door when a customer comes in I always listen to who is on the stair behind them. This time I heard a 2<sup>nd</sup> person on the stairs. Asked who is this? He said: his friend. I told him to get out. He pulled a gun on me. I fought him. If I'm going to die then everyone is going to jail. The other person came upstairs. I didn't tell the police. If I go to the police I have to tell the police where I live. They will have a car at my door to fine my clients. If one or two clients get a fine- I will lose all of them.”*

*“If we knew for sure they [police] would help us that would be great. But then they [police] disturb you. I prefer to resolve problems myself. Only if they [perpetrators] come to my house and fight me hard- send me to hospital- I will tell the police.”*

*“If a customer is bad you need to manage it yourself to the end. You only call the police if you think you are going to die. If you call the police you lose everything.”*

Research in PNG and Hong Kong also found that law enforcement officials use condoms as evidence of sex work-related crimes. This practice leads to sex workers' greater reluctance to carry and use condoms, thus negatively impacting their health and HIV prevention efforts. Police in Norway also informed AI that condoms found in premises are used as evidence of sex work.

#### **4. The most marginalised sex workers often report the highest levels, and worst experiences, of criminalisation**

Migrant street-based sex workers in Norway spoke frequently about their feelings that the police would not support them because of the intersectional discrimination they face.

*“The other day a guy was harassing my friend on the street. The guy kept taking pictures of her. He was a Norwegian guy. She asked him to stop taking photos then. He started to insult her- called her a prostitute or something. She took the phone off him and threw it away. The guy just slapped her and they started to fight. The guy called the police. Both of them were taken to the station and the police took the guy's side. [They said:] ‘He's Norwegian-you're not from here. You're African.’”*

*“Most customers do harass us because they can do anything to us. White women – [even if they are] not Norwegian are more relaxed because they know police will help them. Customers know that police will react if white girls are hurt. They know they won't do anything to help black women.”*

In the CABA, transgender street-based sex workers received the majority of citations issued under the law criminalising the “ostentatious” offer or demand of sex, whilst clients were rarely, if ever, cited under the law. The head of ATTTA, a transgender rights NGO, told AI:

*“The main violence against transgender sex workers is the structural one because [the] police [are] the one[s] who imprison us and abuse us. [The police] are aware of our vulnerability and they make a profit of it and take our money. They control us that way. . . . Before the gender identity law was approved the police used to ask us for money in order to let us work on the streets. Now they ask us for money in order to take care of us and give us security [from human trafficking networks and thieves]. There's a constant persecution. [In fact,] sometimes [the police] “free” the zone so that thieves can go in and steal from sex workers and clients.”*

It is not possible for migrants to lawfully engage in sex work in Hong Kong. As such all migrant sex workers are in “breach of condition of stay.” A migrant sex worker prosecuted for sex work related offences will receive a more severe penalty than a Hong Kong resident, often an immediate 2 month custodial sentence, for having breached the same provisions, because a non-resident will also be charged for having breached the Immigration Ordinance.