



SEX WORK AND POLICING

ASIJIKI
COALITION TO
DECRIMINALISE
SEX WORK IN
SOUTH AFRICA



ASIJIKI | FACT SHEET 2015

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As a group, sex workers are at high risk of violence and other crimes. Like many other at-risk groups, they are over-policed but under-protected. This fact sheet describes present problems with the policing of sex work and sex workers. It then explains how the situation could improve if sex work was decriminalised.

1 WEAK POLICING OF CRIMES AGAINST SEX WORKERS

- Because people do not generally approve of people having sex with many partners, and particularly so if they are women, sex workers suffer greatly from stigma and discrimination. Stigma and discrimination are the main cause of violence against sex workers, because they are seen as people who “deserve” abuse^{1, 2, 3}. This is why sex workers, especially those who work on the street, are at high risk of violence, including sexual violence and murder^{4, 5, 6, 7, 8}.
- Because sex work is a crime, sex workers will avoid the police to stop themselves from being arrested or abused by them. This means they may work in out-of-the-way places where they could be easily attacked^{9, 10}.
- Many police officers believe the myth that it is “impossible” for sex workers to be raped, or believe that sex workers “deserve” to be abused. Police therefore seldom want to open a case, even if a sex worker lays a complaint about abuse^{11, 12}.
- Because sex workers know they will not be listened to or are afraid of being abused by police, they are unlikely to report crimes against them. This makes them easy targets for robbers, clients who are violent or refuse to pay, dishonest managers, abusive partners and even murderers^{13, 14, 15, 16}.
- Arresting sex workers wastes valuable police resources. From April 2014 to March 2015, there were 6340 arrests for “Sexual offences [detected] as result of police action”, which does not include the many sex workers who are arrested without any crime being officially recorded (see below)¹⁷. In 2011, it was worked out that at least R14 million is spent on policing and bringing sex workers to court¹⁶.

“Sex workers avoid police to stop themselves from being arrested or abused by them.”

2 DIRECT POLICE VIOLENCE AND ABUSE AGAINST SEX WORKERS

“Sex workers are especially at risk of violence and abuse from the police.”

- It is difficult to prove that someone has had sex for money, so the police often target sex workers under by-laws banning “loitering” and “public nuisance”¹⁸. These crimes are also very hard to prove, so accusing sex workers of them is often random and unfair: it amounts to harassment. The Western Cape High Court has ruled against the police for arresting sex workers without intent to charge them¹⁹.
- Sex workers are especially at risk of violence and abuse from the police. This is because the law gives the police the power to threaten them with arrest. This means that they cannot report violence or abuse. Many sex workers in South Africa report that they have been harassed, robbed, assaulted or raped by police, as well as being arrested illegally or forced to give bribes^{20, 21, 22, 23}.
- Many police officers in South Africa see condoms as “evidence” that someone is a sex worker and seize them, or even arrest the person carrying them. This means that sex workers are less likely to carry condoms and, as a result, are at greater risk for HIV and other STIs²⁴.
- Even when police arrest sex workers lawfully, they often use unnecessary force, including handcuffing them roughly, physically controlling them and putting them in jail. Although lawful, this use of force is often stressful and usually completely unnecessary, since sex workers are seldom violent or a danger to the public.

“Where sex work is criminalised, as in South Africa, some police officers confiscate condoms from people they believe are sex workers.”

3

WAYS TO POLICE SEX WORKERS SUCCESSFULLY

- Safety for street sex workers can be improved a lot by better lighting, CCTV cameras and increasing police presence in areas where they work^{25, 26}. However, this sort of approach will only work if sex workers trust that they will not be arrested, harassed, or have their names written down or made public.
- Since 2006, the police authorities in Merseyside, UK have seen violence against sex workers as hate crimes and worked hard to get people sentenced for harming sex workers. In 2010, 67% of rapes against sex workers resulted in sentences, compared to only 6.5% for the general population²⁷. This success has only been possible because the police have worked really hard to reduce applying laws against soliciting and other 'prostitution' offences. This has boosted trust between sex workers and the police^{28, 29}.
- National Ugly Mugs is a UK organisation that collects reports about violence from sex workers. It notes that policing areas that do not strongly apply 'prostitution' laws – including Merseyside – see many more sex workers willing to make formal complaints to the police than in districts that do³⁰. This means that criminals are much more likely to be caught and violence against sex workers stopped.
- International experience shows that the police can help prevent violence against sex workers, but this requires a big change in attitude. Sex workers must be thought of as an at-risk group who need protection, rather than as a 'nuisance' or even as a group who 'deserve' violence and abuse³¹. This needs to go along with an end to police abuse of sex workers, either through 'informal' decisions not to apply prostitution law or (much better) changes in the law itself to reflect a respect for human rights.

4

WHY DECRIMINALISATION MAKES FOR BETTER POLICING

- Under decriminalisation, the buying and selling of sex becomes legal. Employment of sex workers is also legal. Sex work is controlled by general labour law. This means that sex workers can organise legally (form a union). It also means that employers (e.g. brothel managers) must obey health and safety labour laws.
- Sex workers feel more able to report violence to the police and even report corrupt police officers themselves, with less fear of arrest or abuse^{32, 33, 34, 35}. Sex workers can report trafficking and abuse more easily.
- Sex workers can also work more openly, in well-lit public streets, in legal brothels or in their own homes. This, along with reduced stigma and discrimination, makes them less likely to be attacked³⁶. They also have more power to negotiate condom use and other services they provide for clients.
- Sex workers can organise openly and/or form a union to fight for their rights and needs within the community³⁷.
- Good policing comes from police being trusted by the community³⁸. This is not possible if members of that community are criminalised and have a mostly negative relationship with the police.

Under decriminalisation, sex workers can report trafficking and abuse more easily.

This Briefing was written by Dr Dean Peters and plain-language edited by Giles Griffin

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