



## Asia Pacific Network of Sex Workers response to UN Women “e-consultation”

### A submission in response to the “Consultation seeking views on UN Women approach to sex work, the sex trade and prostitution”

16 October 2016

*As outlined in APNSW’s letter to UN Women of the same date above, APNSW calls upon UN Women to engage in a meaningful consultation with sex workers that involves meeting face-to-face with sex workers as well as wider participatory processes. A five and a half week online consultation cannot do justice to the diversity of sex workers’ lives, contexts and experiences in Asia and the Pacific.*

#### **Background**

UN Women is an organisation with highly paid staff and consultants. As such, it is important to consider issues of privilege at the start of the process. Before developing any policy that affects marginalised groups, UN Women must consider questions such as the following:

- Will the lives of anyone drafting this policy be directly affected by the policy?
- Would UN Women consider non-women to be experts in women’s lives?
- Who are the experts in sex workers’ lives?
- What biases and prejudices may influence the policy makers based on their upbringing, education and experience as they relate to gender, sexuality, class/caste, race/ethnicity, ability, religion or ideology?
- What efforts have those developing this policy made to recognise and become aware of these biases and prejudices? And how will they ensure that these do not influence the final text?
- Who holds the power in developing this policy? Sex workers? Or UN Women staff and consultants?

#### **Context**

As a UN entity, the international human rights framework must be central to all UN Women policies. Policy development at UN Women should be rights-based and evidence-based; not driven by ideology or fundamentalism.

The history of competing claims over who speaks on behalf of sex workers must be studied and critically analysed. The international human rights framework should be used as the basis for balancing contradictory points of view.



The question of definitions is central to any public policy, and the issue of [language](#)<sup>1</sup> is of great significance. Definitions should recognise the diversity of forms of sex work and the diversity of contexts in which sex work takes place; as well as recognising the intersecting forms of stigma, discrimination and oppression sex workers face. Definitions should themselves do no harm, and should not increase stigmatisation of sex workers, their families or communities.

UN Women policy should, at a minimum, be based around the current policies, guidance notes, and research produced by or in consultation with sex workers.<sup>2</sup>

### Critical reading

- [“Consensus Statement On Sex Work, Human Rights, and the Law”](#) (NSWP, 2013)
- [Moving Toward Decent Sex Work](#) (Empower Foundation, 2016)
- [Sexual health, human rights and the law](#) (WHO, HRP, 2015)
- [Sex Work and the Law in Asia and the Pacific: Laws, HIV and human rights in the context of sex work](#) (UNDP, 2012)
- [Global Commission on HIV and the Law: Rights, Risks and Health](#) (2012)

## 1) Sustainable Development Goals “Agenda 2030”

The universality of human rights and the calls “to leave nobody behind” referenced in Agenda 2030 mean the starting point of UN Women’s policy must be to recognise sex workers as human beings with equal entitlement to the same human rights as anyone else.

This means that laws, policies and practices that restrict or deny the human rights of sex workers are not compatible with Agenda 2030. This holds true irrespective of whether other groups of people use different language to describe sex workers, or hold differing subjective views on the morality or otherwise of sex work. Sex workers exist, and sex workers’ rights are human rights.

In addition to recognising the centrality of human rights, Agenda 2030 also recognises the need for *coherence* in programs that seek to achieve the development goals.

This is especially relevant with regard to migrant sex workers. Anti-trafficking policies that harm the human rights of migrant sex workers, for example, are not compatible with Agenda 2030.

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<sup>1</sup> <https://apnsw.info/2016/05/20/jules-kim-speaks-at-un-19may2016/>

<sup>2</sup> Critical readings cited throughout this document are nowhere near an exhaustive list, but are listed here to ensure inclusion in the policy development process. As pointed out by Global NSWP, UN Women “*should reference academic and community-led research*” in ALL areas of this policy.



The same applies regarding the right to health. Law, policies or practices that prevent sex workers from achieving the highest attainable standard of health are not compatible with Agenda 2030.

The SDGs offer an opportunity to develop and support coherent and consistent policies on migration and health that recognise the inalienable rights of sex workers at home, abroad and everywhere in between.

### Critical reading

- [Migrant sex workers in Australia](#) (Australian Institute of Criminology / Scarlet Alliance, 2015)
- [Moving Toward Decent Sex Work](#) (Empower Foundation, 2016)
- [Hit and Run: True Stories of Raids and Rescues](#) (EMPOWER Foundation, 2011)
- [“Consensus Statement On Sex Work, Human Rights, and the Law”](#) (NSWP, 2013)
- [Collateral Damage: the Impact of Anti-Trafficking Measures on Human Rights around the World](#) (Global Alliance Against Traffic in Women, 2006)

## 2) SDG's – gender equality and the empowerment of women and girls

Sex workers in Asia and the Pacific have fought for many years for the realisation of their rights, including reproductive rights, the right to own property, and the right to live free from violence at home, at work, in the community and abroad.

In seeking economic independence and equality, many sex workers choose sex work over (or in addition to) other gender-stereotyped low paid work such as domestic work or working in garment factories. Laws and policies, however, rarely recognise this element of choice and often push sex workers into binary categories of 'criminal' or 'victim.' The SDG's offer an opportunity to recognise sex workers' agency, sex workers' right to a livelihood and the right to freely choose the nature of their work - among other human rights.

Sex workers in Asia and the Pacific have also been leaders and educators in HIV prevention and key advocates for sexual and reproductive health and rights. The principle of community-led interventions, the effectiveness of community-led interventions, and the value for money that sex worker community-led health interventions deliver have been recognised by a wide range of international public health bodies. The latest World Health Organisation guidelines recognise that addressing structural issues such as gender-based violence, laws that criminalise sex work, and stigma and discrimination in health care settings are integral to improving sex workers' health; and calls for sex worker community led interventions to achieve this. The “SWIT” is an example of policy that promotes the goals outlined in Agenda 2030.



### Critical reading

- [Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations](#) (WHO, HRP, 2014) See also, [policy brief](#).
- [SWIT – Sex Workers Implementation Tool](#) (WHO, UNFPA, UNAIDS, NSWP, World Bank, UNDP, 2013)
- [The HIV and Sex Work Collection: Innovative Responses in Asia and the Pacific](#) (UNFPA, UNAIDS, APNSW, 2012)

### 3) Multiple dimensions of gender; right to be free from violence, stigma and discrimination

Sex workers in Asia and the Pacific have recognised the multiple dimensions of gender in relation to sex work since the early days of the struggle for sex workers' rights. Female sex workers stand in solidarity with transgender sex workers and male sex workers, and recognise that harmful laws and policies such as the criminalisation of sex work affect all sex workers, and that laws criminalising same sex acts harm some sex workers especially.

Public policy on sex work should of course recognise that the majority of sex workers are women; but must also recognise intersecting forms of discrimination and oppression. Trans-phobic and homophobic violence and discrimination against a minority of sex workers must not be neglected or ignored in the name of using a "gender lens." All sex workers – female, male and transgender – share the same right to live free from violence. There is increasing recognition of the evidence supporting the positive role decriminalisation of sex work can have in achieving this and other human rights of all sex workers.

Sex workers in Asia and the Pacific have been at the forefront in advocating for an end to violence against sex workers, which is widespread across the region. In addressing this violence it is critical to understand the difference between sex work itself – engaged in by consenting adults – and acts of violence against sex workers. To state or imply that all sex work is *inherently* violent is an ideological position, not backed up by evidence, which suggests sex workers are incapable of thinking and judging for themselves. The forced imposition of this point of view on sex workers is not consistent with an evidence-based, human rights approach to policy on sex work.

### Critical Reading

- [The Right\(s\) Evidence – Sex work, violence and HIV in Asia](#) (UNDP, UNFPA, APNSW, SANGRAM, 2015)
- [The Right\(s\) Process](#) (UNDP, UNFPA, APNSW, SANGRAM, 2015)
- [Consensus Statement On Sex Work, Human Rights, and the Law](#) (NSWP, 2013)
- [Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003](#) (Government of New Zealand, 2008)



## Conclusion

Reading the critical reading cited above, and additional relevant resources such as those linked on the [Reports and Research](#) page of the APNSW website and the NSW [draft framework for UN Women](#), is a good starting point for UN Women in developing policy. However, serious policy making requires serious consultations, and 1500 words cannot do justice to the complexity and importance of sex workers lives.

In conclusion, ***APNSW calls upon UN Women to engage in a meaningful consultation with sex workers in Asia and the Pacific.***