



nswp Global Network of Sex Work Projects
Promoting Health and Human Rights

BRIEFING NOTE:

Sex Work is not Sexual Exploitation

NSWP is concerned that the term ‘sexual exploitation’ is often conflated with sex work by those who support an ideological framework that views all sex work as violence and exploitation. Defining sex work as ‘sexual exploitation’ exacerbates the vulnerability of sex workers and results in human rights abuses.

The conflation of sex work with ‘sexual exploitation’ and with trafficking, is a major factor in perpetuating coercive and precarious working conditions in sex work. This conflation has led to extremely harmful legislation that limits sex workers’ access to justice and services, and prevents them from organising for better work conditions or asserting their human and labour rights.¹

What is sex work?

Sex work is work. This simple yet powerful statement frames sex workers not as victims, criminals, vectors of disease (or indeed sinners) but as workers. Sex work is first and foremost an income-generating activity that encompasses diverse workplaces and working arrangements.

Sex workers include female, male and transgender adults and young people (over 18 years of age) who receive money or goods in exchange for sexual services, either regularly or occasionally.² Sex work may vary in the degree to which it is “formal” or organised. It is important to note that sex work is **consensual** sex between adults— which takes many forms— and varies between and within countries and communities.³

The struggle for the recognition of sex work as work is closely tied to the progress of law reform that decriminalises sex work. Central to the demand for full decriminalisation is the argument that sex workers’ labour rights— including their right to social protection— should be protected, respected and fulfilled, regardless of occupation.

What is ‘sexual exploitation’?

Part of the problem is that ‘exploitation’, and by implication ‘sexual exploitation’, have no agreed definition in international law. Unfortunately, this has led to misinterpretation of the term (wilful or otherwise) leading to harmful national laws, policies and practices, as well as national and international initiatives that impact negatively on sex workers’ human rights.

In 2003, in response to an investigation into ‘sexual exploitation’ of refugees by aid workers in West Africa, the UN Secretary General defined ‘sexual exploitation’ as:

“...any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.”⁴

¹ NSWP, 2019, “[Policy Brief: The Impact of Anti-trafficking Legislation and Initiatives on Sex Workers](#)”.

² UNAIDS, 2012, “[UNAIDS Guidance Note on HIV and Sex Work](#)”.

³ WHO, UNFPA, UNAIDS, NSWP, World Bank & UNDP, 2013, “[Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions](#)”.

⁴ United Nations, 2003, “[Secretary-General’s Bulletin: Special measures for protection from sexual exploitation and sexual abuse](#)” (ST/SGB/2003/13).

NSWP | The Matrix, 62 Newhaven Road | Edinburgh EH6 5QB | Scotland UK

secretariat@nswp.org | +44 (0)131 553 2555 | www.nswp.org

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Illustrating the necessity for unambiguous language use, the UN Inter-Agency Standing Committee (IASC) Task Team on Accountability for Affected Populations and Protection from sexual Exploitation and Abuse expanded on the Secretary General's words by commenting that 'sexual exploitation':

"...is a broad term, which includes a number of acts described below, including "transactional sex", "solicitation of transactional sex" and "exploitative relationship."⁵

Exploitation, unsafe and unhealthy working conditions exist in many labour sectors. Work does not become something other than work in the presence of these conditions. Indeed, criminalisation creates the conditions in which violations of sex workers' rights, including their labour rights, continue with impunity.

International instruments that impact significantly on concepts of 'sexual exploitation':

The Trafficking in Persons Protocol⁶ and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)⁷ are the clearest examples of international instruments that reference 'sexual exploitation', but fail to define it. Both documents use the phrase 'exploitation of prostitution'. The Protocol further defines this as follows:

"...exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."⁸

CEDAW does not use the term 'sexual exploitation' in the Convention itself. However, the CEDAW Committee has regularly incorporated the language of the Protocol, including the use of 'sexual exploitation', into its General Recommendations and Concluding Observations. The impact of this ambiguity, given the significant influence of these two instruments, has been extremely problematic and has increased the vulnerability of sex workers, undermining their protection under human and labour rights law.

In their 2015 Issue Paper, The United Nations Office on Drugs and Crime (UNODC) which leads the UN response to human trafficking, reflected on the concept of 'exploitation' in the Trafficking in Person Protocol. This paper clearly acknowledges that sex work must not be conflated with human trafficking:

"It is important to note that the Protocol does not equate prostitution with trafficking. For prostitution involving adults to fall within the definition of trafficking all three definitional elements (act, means and purpose) [must be present]. The relevant 'purpose' is 'exploitation of prostitution'.⁹

Furthermore, the paper attempted to clarify that 'sexual exploitation' does not refer to all sex work:

"While the meaning of 'sexual exploitation' is not fixed, a contextual analysis reveals certain parameters. When used in the context of the Protocol, this term could not be applied to prostitution generally as States made clear that was not their intention."¹⁰

However, the Issue Paper also described the negotiation process undertaken to arrive at this definition, which was both contentious and highly political. The issues regarding 'prostitution' and 'sexual exploitation' were:

⁵ IASC, 2016, "[Understanding the differences between Sexual Exploitation and Abuse, Sexual Harassment and Sexual and Gender-Based Violence](#)".

⁶ United Nations, 2000, "[Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](#)".

⁷ United Nations, 1979, "[Convention on the Elimination of all Forms of Discrimination against Women](#)".

⁸ United Nations, 2000, "[Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime](#)".

⁹ UNODC, 2015, Issue Paper on "[The concept of 'exploitation' in the Trafficking in Persons Protocol](#)," 7.

¹⁰ UNODC, 2015, Issue Paper on "[The concept of 'exploitation' in the Trafficking in Persons Protocol](#)," 8.

“...central to discussions around the definition of trafficking...[H]owever, States disagreed, sometimes intensely, on how these issues were to be dealt with in the Protocol.”¹¹

The eventual final wording “exploitation of the prostitution of others and other forms of sexual exploitation” was a political compromise, and an accompanying Interpretative Note to the Protocol **“further confirms that States deliberately decided not to define either term”¹²**, to ensure the Protocol did not dictate how States might legislate on sex work in their domestic laws.

Finally, UNODC notes that:

“[A]t one stage in the negotiation process, the rolling text contained a definition of “sexual exploitation” that, in the case of adults implied a means element such as force or clear lack of consent. It was subsequently decided that there was no need to define the term.”¹³

Impact of conflation:

This lack of a shared definition has meant States, fundamental feminists and abolitionist groups have had room to conflate all sex work with ‘sexual exploitation’— which a basic internet search of the two terms will attest to.

This lack of willingness to define ‘sexual exploitation’ also hinders the effective investigation and prosecution of trafficking in all sectors.

In her 2018 report to the Human Rights Council, the UN Special Rapporteur on contemporary forms of slavery notes:

“Generally, more attention is paid to human trafficking for sexual exploitation than to exploitation for forced labour, including servitude in the domestic sphere. A victim-centred approach needs to be applied to all victims of contemporary forms of slavery to ensure equal treatment, regardless of the sector of prevalence.”¹⁴

In another 2018 report to the UN General Assembly, she noted that conflation of ‘sexual exploitation’ with all sex work denies sex workers agency and treats them as victims.

“Laws, policies and services that are “gender-sensitive” have often been protectionist in nature, particularly in the anti-trafficking and sexual exploitation spheres. These instruments may reinforce harmful stereotypes about women as victims of slavery without any agency and also lead to the gender-specific causes of the many contemporary forms of slavery being overlooked.”¹⁵

A significant impact of this conflation has been the increasing criminalisation of sex workers’ clients as a flawed attempt to decrease exploitation. The criminalisation of clients has been shown to increase violence against sex workers, and decrease earnings by pushing sex work to the margins of society in order to avoid detection by law enforcement. Sex workers operating under this framework are also far less likely to report violence and abusive or coercive practices. It impedes access to health and social services and isolates sex workers from their support networks. **There is no conclusive evidence to suggest that criminalising clients eliminates or significantly reduces sex work.**

¹¹ UNODC, 2015, Issue Paper on [“The concept of ‘exploitation’ in the Trafficking in Persons Protocol,”](#) 27.

¹² UNODC, 2015, Issue Paper on [“The concept of ‘exploitation’ in the Trafficking in Persons Protocol,”](#) 27.

¹³ UNODC, 2015, Issue Paper on [“The concept of ‘exploitation’ in the Trafficking in Persons Protocol,”](#) 29.

¹⁴ UN General Assembly, Human Rights Council, Thirty-ninth session, 10-28 September 2018, [“Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences,”](#) A/HRC/39/52.

¹⁵ UN General Assembly, 10th July 2018, [“Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences,”](#) A/73/139.

Additionally, this approach has a negative impact upon the identification of victims of trafficking, deterring both clients and sex workers from reporting exploitation and trafficking. Challenging the dominant narrative that portrays all clients of sex workers as abusive and exploitative men who lack respect for women, in Turkey, where the purchase of sex is not criminalised, 74% of calls to a trafficking hotline came from clients who suspected trafficking.¹⁶

While the term ‘exploitation of prostitution of women’ avoids mandating States suppress all sex work, it is not sufficiently defined. It therefore has allowed for dangerously broad interpretations in the context of implementation of anti-trafficking initiatives. This ambiguous language has led to widespread human rights abuses of sex workers.

“[T]he 2012 amendment of the Federal Anti-Trafficking Law criminalised a broader range of conduct and the law now simply requires proof of ‘exploitation’, for which there is no clear definition in law. In the context of commercial sex, the authorities are interpreting this to simply require some form of involvement in the organisation of sex work. As many government officials deem sex work exploitative, current legislation allows human trafficking and sex work to be treated in practice as one and the same and there is little or no incentive to distinguish between the two.”¹⁷

Fundamental feminist and abolitionist groups regularly capitalise on this ambiguity. In their 2019 submission to CEDAW’s consultation on their proposed General Recommendation on Trafficking in Women and Girls in the Context of Global Migration, the European Network of Migrant Women (ENMW) selectively quoted the UN Secretary General, to imply that he was opposed to all sex work. The ENMW pronounced their dismay that the Committee had been:

“holding consultations with...the lobbyist groups with direct interests in the profits generated by the sex trade...in breach of the UN commitments and protocols...In the words of the UN Secretary-General António Guterres the United Nations should “not let anyone cover up these crimes [of sexual exploitation] with the UN flag.”¹⁸

The Secretary General, had in fact been speaking at a High Level Meeting¹⁹ on the elimination of ‘sexual exploitation’ and abuse generally, however ENMW, by situating their words in the context of sex work, disingenuously managed to imply the UN’s established position was anti-sex work.

Conclusion:

The use of language is key in ensuring that standing against exploitation and abusive practices doesn’t infringe on the bodily autonomy and agency of consenting adults.

The term ‘sexual exploitation’ is regularly and harmfully used to describe all sex work. It has become synonymous with the ‘exploitation of prostitution’, and this is understood variously as all organising/managing of sex work, or even as all sex work. Additionally, it is used to demonise the clients of sex workers, and to justify the increasing criminalisation of sex workers’ clients. The conflation of sex work with ‘sexual exploitation’, and with trafficking, impacts negatively on sex workers and increases the stigma and discrimination they experience.

Recommendations:

- A clear, unambiguous distinction between ‘sexual exploitation’ and sex work as distinct phenomena
- The full decriminalisation of sex work— including sex workers and clients, and the repeal of ‘end demand’ approaches and third-party laws
- Ensure sex workers are afforded labour rights in line with the four components of decent work as defined by ILO: employment, social protection, workers’ rights and social dialogue
- Respect for the bodily autonomy and agency of sex workers

¹⁶ [“Customers help stamp out Turkey’s sex slaves”](#), The Independent, 28 December, 2005.

¹⁷ Amnesty International, 2016, [“Argentina: What I’m doing is not a Crime”](#), 27.

¹⁸ ENMW, 2019, [“Submission by the European Network of Migrant Women \(ENMW\) to the CEDAW Committee on Trafficking in and the Exploitation of Prostitution of Women and Girls in the Context of Global Migration, 72nd Session”](#).

¹⁹ UN News, 2017, [“World leaders pledge to eliminate sexual exploitation and abuse; UN chief outlines course of action”](#).

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