



UN Guiding Principles on Business and Human Rights at 10: Ensuring Protection of Rights of Sex Workers as Vulnerable Workers and Rights-Holders in the Global Economy

IWRAP Asia Pacific and NSWP call on the UN Working Group on Business and Human Rights to ensure a rights-affirming approach to sex work as they take stock of 10 years of the UN Guiding Principles on Business and Human Rights (UNGPs) and develop an ambitious vision and roadmap for the decade ahead. We make this statement to supplement [recent calls](#) made to the UN Working Group to apply the UNGPs more rigorously with respect to the sex industry.

As women's rights and sex workers' rights activists, we welcome any measure to enhance the protection of the human rights of sex workers. We, however, emphasise that in formulating guidance and recommendations on this topic, it is imperative that the UN Working Group adopt a rights-affirming approach that recognises the importance of decriminalisation, applies a labour framework to sex work, and recognises sex workers as equal holders of all human rights with corresponding State obligations. We urge the UN Working Group to recognise that sex workers are a marginalised group whose voices are more often than not excluded in international human rights standard-setting processes, including on issues affecting their rights. Where sex workers do have access to such processes, their voices are either ignored or silenced. Consequently, it is imperative that the UN Working Group meaningfully engage with people who are currently engaged in sex work as it considers the application of the UNGPs and its Gender Guidance to this area.

We welcome the stance of the UN Working Group which recognises in its [background note](#) that *"the role of the State in protecting vulnerable workers and other rights-holders negatively affected by economic forces is critical and irreplaceable"*, particularly in the context of the COVID-19 pandemic. We ask the UN Working Group to ensure that sex workers are included within this rights-affirming framework as it moves forward with its UNGPs10+ project. We further draw its attention to the following specific issues as it develops its vision and roadmap for the decade ahead:

1. **Importance of the decriminalisation of sex work:** Decriminalisation of sex work is the policy approach that has the most rights-affirming impact on sex workers.¹

¹ Global Network of Sex Work Projects, *The Impact of Criminalisation on Sex Workers' Vulnerability to HIV and Violence*, December 2017. Available at: <https://www.nswp.org/resource/the-impact-criminalisation-sex-workers-vulnerability-hiv-and-violence>

Decriminalisation means the removal of all laws and policies that make sex work a criminal offence or regulatory or misdemeanor offence (such as those prohibiting selling, soliciting, manifesting, buying or facilitating sex work or living off its proceeds).² Criminalisation increases sex workers' vulnerability to violence and HIV and severely inhibits the health and wellbeing of sex workers globally. Even before arrest, the common knowledge that sex workers are unlikely to report violence, or to be taken seriously when they do, creates a culture of impunity for law enforcement and civilians alike. Decriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections in the next decade.³ To enhance the health and wellbeing of sex workers, States must ensure the full decriminalisation of sex work.⁴

2. **Applying a labour framework to sex work:** Sex work is first and foremost an income-generating activity. The International Labour Organization (ILO) estimates that sex workers on average support between five and eight other people with their earnings.⁵ Recognising the macroeconomic conditions that are contributing to global economic inequality and poverty at a rate unprecedented in history means acknowledging that sex workers are a group of precarious workers making choices constrained by larger social, political and economic systems, which seek to entrench discrimination and exploitation rather than alleviate it. Consequently, taking a labour rights approach to sex work is the only way to establish standards of 'decent work' in the industry and address labour exploitation most easily. Sex workers in the Global South, from [India](#) to [Argentina](#), are collectivising to claim rights as workers in the informal economy in furtherance of this understanding. This approach further recognises the agency of consenting adults in sex work and enables the distinction between sex work and trafficking.
3. **Applying a human-rights-based approach to sex work:** Sex workers are equal holders of all human rights and States have the obligation to respect, protect, promote and fulfill their rights.⁶ The NSWP Consensus Statement on Sex Work, Human Rights and the Law recognises the following eight rights as critical to safeguarding sex workers' human rights, labour rights and health rights: the right to associate and organise; the right to be protected by the law; the right to be free from violence; the right to be free from discrimination; the right to privacy, and freedom from arbitrary interference; the right to health; the right to

² Amnesty International, Explanatory Note on Amnesty International's Policy on State Obligations to Respect, Protect and Fulfill the Human Rights of Sex Workers, Index: POL 30/4063/2016 26 May 2016, page eden%E2%80%99s-sex-workers21

³ Shannon, Kate et al, 'Global epidemiology of HIV among female sex workers: influence of structural determinants.', *The Lancet*, Volume 385, Issue 9962, 55–71, DOI: <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2814%2960931-4/abstract>

⁴ Supra at 1

⁵ Global Network of Sex Work Projects, Policy Brief: Sex Work as Work, December 2017. Available at: https://www.nswp.org/sites/nswp.org/files/policy_brief_sex_work_as_work_nswp_-_2017.pdf

⁶ International Women's Rights Action Watch Asia Pacific & Global Network of Sex Work Projects, Framework on Rights of Sex Workers & CEDAW, 2017. Available at: <https://www.iwraw-ap.org/wp-content/uploads/2018/04/Framework-on-Rights-of-Sex-Workers-CEDAW-1.pdf>

move and migrate; and the right to work and free choice of employment.⁷ The former UN Special Rapporteur on the right to physical and mental health Anand Grover, writing on the subject of sex work and human rights, states that certain freedoms and entitlements based on the classical understanding of liberty - respect for autonomy and consent - are fundamental and underlie all human rights. He further holds that:

*“These freedoms, combined with entitlements such as participation of affected communities in decision-making and access to remedies for rights violations, form the core principles of a rights-compliant system. Applying this system to adult consensual sex work requires that at every stage and transaction in sex work, autonomy and consent are respected by the State without discrimination, and that the State ensures participation and access to remedies.”*⁸

Applying a human-rights-based approach to sex work clarifies that international human rights law cannot be interpreted in a way that further leads to rights violations. This is particularly important to recognise and guard against in the context of sex work, human rights, and the law.

⁷ Global Network of Sex Work Projects, Consensus Statement on Sex Work, Human Rights, and the Law, December 2013. Available at: <https://www.nswp.org/sites/nswp.org/files/ConStat%20PDF%20EngSum.pdf>

⁸ Tripti Tandon, Gabriel Armas-Cardona, Anand Grover, Sex Work and Trafficking: Can Human Rights Lead Us Out of the Impasse?, Health and Human Rights Journal, October 2014. Available at: https://www.hhrjournal.org/2014/10/sex-work-and-trafficking-can-human-rights-lead-us-out-of-the-impasse/#_ftn11