

SECOND THOUGHTS

Decreasing Human Trafficking through Sex Work Decriminalization

Erin Albright, JD, and Kate D'Adamo, MA

Abstract

In order to decrease human trafficking, health care workers should support the full decriminalization of prostitution. Similar to trafficking in other forms of labor, preventing trafficking in the sex trade requires addressing the different forms of marginalization that create vulnerable communities. By removing punitive laws that prevent reporting of exploitation and abuse, decriminalization allows sex workers to work more safely, thereby reducing marginalization and vulnerability. Decriminalization can also help destigmatize sex work and help resist political, social, and cultural marginalization of sex workers.

Introduction

In August 2016, Amnesty International, while maintaining and reaffirming its strong condemnation of human trafficking, released a model policy that calls upon countries to decriminalize the sex trade in order to better protect the health and human rights of sex workers [1]. As Amnesty explains in the policy, decriminalization is the shift from “catch-all offences that criminalize most or all aspects of sex work,” including laws that target noncoercive third parties who purchase or facilitate sex work, to “laws and policies that provide protection for sex workers from acts of exploitation and abuse” [2]. The policy has been supported by the World Health Organization, UNAIDS, the Global Alliance Against Traffic in Women (GAATW), Human Rights Watch, Lambda Legal, the American Civil Liberties Union, Freedom Network USA, and numerous other organizations that focus on vulnerable populations, including victims of human trafficking [3, 4]. Most importantly, it is a policy overwhelmingly supported by those trading sex—the community impacted by these laws and policies [5].

In contrast, organizations that view decriminalization as granting permission and impunity to would-be exploiters have criticized the policy, despite its insistence that anti-trafficking and physical and sexual assault laws be maintained or established [1]. These criticisms, however, fail to engage in a nuanced conversation of sex work as it relates to exploitation, poverty, discrimination, worker rights, and human trafficking [6]. More importantly, research shows the opposite to be true—that it is *criminalization* that creates conditions of impunity and enhances sex workers' vulnerabilities to violence and exploitation, including trafficking.

Reasons to Oppose Criminalization of Sex Work

Sex work and sex trafficking are not synonymous. Involvement in the sex trade occurs across a constantly shifting spectrum of choice, circumstance, and coercion. Victims of trafficking are at the far end of this spectrum, involved through force or coercion. While quantifying the number of persons trafficked into the sex trade is difficult, as we discuss below, we do know that criminalization of sex work increases sex workers' vulnerability to violence, exploitation, and [trafficking](#) [7]. So, here, we discuss four reasons why health care professionals should oppose the criminalization of sex work.

Increased violence. First, criminalization increases opportunities for violence that's *de facto* unreportable [7]; that is, because the work they do is regarded as criminal activity, sex workers are easy targets for abuse and exploitation, including trafficking. Fear of arrest and other consequences means that those engaged in sex work are less likely to report instances of violence or exploitation, resulting in a "climate of impunity [that] emboldens police, health sector, and non-state groups to abuse sex workers' rights" [8]. This is true even for so-called "partial criminalization" frameworks, such as those that penalize only the buyers of sex. Although such a strategy appears at first glance to be grounded in the well-being of sex workers, implementation often means policing of the areas where sex workers conduct business. This forces those working into more isolated conditions and locations, increasing their physical vulnerability. It disrupts critical safety strategies and negotiations including harm-reduction techniques—such as the use of condoms—and peer networks [7]. According to a study published in the *Lancet*, partial criminalization "creates harms similar to those of full criminalisation by impeding sex workers' ability to protect their health and safety, and creating an antagonistic relationship with law enforcement resulting in a climate of impunity" [8].

Erosion of trust. Second, criminalization [undermines trust](#) in support systems, including health care. Fear of judgment, discrimination, lower quality of service, and legal consequences inhibit many from disclosing that they are involved in sex work, regardless of whether they are so engaged through choice, circumstance, or coercion [9]. One study of 783 sex workers reported that 70 percent had never disclosed the nature of their work to a health care professional [10]. In a needs assessment of sex workers who seek clients in public spaces, often referred to as street-based sex work, one woman explained, "I was raped and was afraid to be judged by the hospital and that they'd call the police" [9]. Disrupting the relationship between a health care professional and a sex worker can mean important red flags for exploitation, violence, and trafficking go unreported.

Increased vulnerability. Third, involvement in the criminal justice system creates long-lasting consequences, in terms of a person's health outcomes and vulnerability to trafficking and other forms of exploitation. The inability to hide an arrest and conviction

for prostitution makes obtaining formal employment, housing, benefits, and community support significantly more difficult. Fines, fees, and costs associated with an arrest exacerbate poverty, which significantly increases a person's vulnerability to trafficking and other forms of exploitation.

Stigma. Finally, criminalization reinforces stigma, which perpetuates sex workers' marginalization. Research supports the fact that sex workers are some of the most marginalized people in the world, subject to widespread human rights violations including homicide, physical and sexual violence, incarceration, harassment from law enforcement, and discrimination in accessing health care and other sources of support [1]. Socially, culturally, politically, and economically, sex workers are stigmatized, ignored, and actively silenced even in advocacy spaces debating the very policies that influence their lives [11]. Too often, sex workers are spoken for instead of given a platform for speaking themselves, and a result is a lack of recognition and enforcement of their basic human rights.

Conclusion

Decriminalization can motivate more prominent recognition of sex workers' [human rights](#) and is thus a critical mechanism for decreasing trafficking. When we improve the health and human rights of sex workers, we do so for those who are trafficked into sex work as well. Indeed, the United Nations Office of the High Commissioner for Human Rights "Recommended Principles and Guidelines on Human Rights and Trafficking" notes that "violations of human rights are both a cause and a consequence of trafficking in persons," and therefore it is "essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking" [12]. By decriminalizing sex work, sex workers who experience violence can seek help from law enforcement, health care workers, or even friends with less fear of consequences to themselves or others. They can engage peer networks and employ harm-reduction techniques that help keep them safer, such that they no longer have to face the consequences of a criminal record for simply trying to survive.

References

1. Amnesty International. Sex workers at risk: a research summary on human rights abuses against sex workers. http://www.amnestyusa.org/sites/default/files/briefing_-_sex_workers_rights_-_embargoed_-_final.pdf. Published May 2016. Accessed September 5, 2016.
2. Amnesty International, 20.
3. Women's rights organization applauds new Amnesty International Policy to protect sex workers' rights [news release]. Washington, DC: Center for Health and Gender Equity; May 26, 2016. Accessed October 19, 2016.

4. Koster K. Does Amnesty International's sex work resolution support "gender Apartheid"? *Huffington Post*. November 3, 2015. http://www.huffingtonpost.com/katherine-koster/amnesty-sex-work-resolution_b_8447106.html. Accessed October 19, 2016.
5. Due to the myriad systems that marginalize women, including gender discrimination in the formal workplace and a higher scrutiny for policing under prostitution and loitering laws, women, both cis and transgender, are disproportionately engaged in the sex trade and may experience higher rates of exploitation. See, for example, Bobashev GV, Zule WA, Osilla KC, Kline TL, Wechsberg WM. Transactional sex among men and women in the South at high risk for HIV and other STIs. *J Urban Health*. 2009;86(suppl 1):32-47.
6. Critics may also incorrectly use the terms decriminalization and legalization interchangeably, despite important differences in meaning. Legalization involves imposing state control over sex work through regulation, often in ways that perpetuate marginalization of vulnerable people.
7. World Health Organization. *Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical Approaches from Collaborative Interventions*. Geneva, Switzerland: World Health Organization; 2013:24. http://apps.who.int/iris/bitstream/10665/90000/1/9789241506182_eng.pdf?ua=1. Accessed September 12, 2016.
8. Decker R, Crago AL, Chu SK, et al. Human rights violations against sex workers: burden and effect on HIV. *Lancet*. 2015;385(9963):192.
9. Neal N, Schrader T, Hyndman, et al. Street based sex workers needs assessment: Toronto, Barrie and Oshwa. *Street Health*. February 2014:15. <http://www.streethhealth.ca/downloads/sex-workers-needs-assessment.pdf>. Accessed August 25, 2016.
10. Cohan D, Lutnick A, Davidson P, et al. Sex worker health: San Francisco style. *Sex Transm Infect*. 2006;82(5):418-422.
11. Sukthankar A. Sex work, HIV and the law. Paper presented at: 3rd Annual Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law; July 7-9, 2011; Geneva, Switzerland. <http://hivlawcommission.org/index.php/report-working-papers?task=document.viewdoc&id=99>. Accessed November 11, 2016.
12. United Nations Office of the High Commissioner for Human Rights. Recommended Principles and Guidelines on Human Rights and Human Trafficking. <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>. Published 2002:3. Accessed November 18, 2016.

Erin Albright, JD, is the regional program director at Give Way to Freedom, in Boston. Her eight years of experience in the anti-trafficking field includes work for the Boston Police Department's Human Trafficking Unit, managing a network of service providers in New England, participation in and leadership for the Freedom Network USA, and providing

consultation and leadership for task forces in New England and across the country. She specializes in building organizational capacity and service collaboration through training and consultation with service providers, law enforcement, task forces, and law makers.

Kate D'Adamo, MA, is a national policy advocate at the Sex Workers Project in New York City, where she works on policy and social advocacy at the state, federal, and cross-regional level on issues impacting those engaged in the sex trade, including human trafficking and HIV. Prior to joining the Sex Workers Project, Kate was a lead organizer with the Sex Workers Outreach Project-NYC and Sex Workers Action New York, two constituent-led organizations supporting those trading sex in the NYC area. She has also worked on issues including human trafficking, labor rights, international solidarity, and migration at the International Commission for Labor Rights, Global Workers Justice Alliance, the Open Society Foundation, and the Freedom Network USA.

Acknowledgements

The authors would like to acknowledge and thank Meg Muñoz, founder and executive director of Abeni, for her input, wisdom, and overall leadership on this subject.

Related in the *AMA Journal of Ethics*

[The AMA Code of Medical Ethics' Opinions on Respect for Civil and Human Rights](#), August 2010

[Can There Be Healing without Trust?](#), July 2006

[Saving the Starfish: Physicians' Roles in Responding to Human Rights Abuses in Global Health Practice](#), January 2017

[Should US Physicians Support the Decriminalization of Commercial Sex?](#), January 2017

The viewpoints expressed in this article are those of the author(s) and do not necessarily reflect the views and policies of the AMA.

**Copyright 2017 American Medical Association. All rights reserved.
ISSN 2376-6980**