

UNDERSTANDING SEX WORK AS WORK

A BRIEF GUIDE FOR LABOUR RIGHTS ACTIVISTS



FOR AN INTERSECTIONAL PERSPECTIVE ON SEX WORKERS' RIGHTS

The struggle for sex workers' rights intersects with many other social movements. Contrary to the monolithic abolitionist discourse, which portrays all sex workers as "prostituted women" without agency, our communities are diverse and resilient. Sex workers are male, female and non-binary, LGBTQ, migrants and workers. Supporting sex workers' rights means understanding the diversity and complexity of our lives and involving sex workers from diverse communities in decision making, policy making and debates. This series of briefing papers will give sex workers, activists from other social movements and policy makers the tools to explore the intersection of sex workers' rights with other rights and social struggles such as those connected with LGBT people, women, workers, migrants and health.

ABOUT ICRSE

The International Committee on the Rights of Sex Workers in Europe (ICRSE) is a sex worker-led network representing more than 85 organisations led by or working with sex workers in 30 countries in Europe and Central Asia, as well as 150 individuals including sex workers, academics, trade unionists, human-rights advocates, and women's rights and LGBT rights activists. ICRSE opposes the criminalisation of sex work and calls for the removal of all punitive laws and regulations regarding and related to sex work as a necessary step to ensure that governments uphold the human rights of sex workers. As long as sex work is criminalised – directly or indirectly through laws and practices targeting sex workers, clients, or third parties – sex workers will be at increased risk of violence (including police violence), arrests, blackmail, deportations and other human rights violations.

INTRODUCTION

The labour movement was born during the industrial revolution in the 19th century when workers came together to advocate for better working conditions and treatment by their employers. In this period of increasing industrialisation, workers had no established rights defined by labour and employment laws and suffered widespread and very harsh forms of exploitation. Workers formed trade unions in different industrial sectors, which, through collective action such as strikes, obtained sick and maternity leaves, holidays, abolished child labour, reduced weekly working hours, increased wages and forced governments to adopt labour laws protecting people's lives through health and safety measures. Today, some trade unions have become powerful institutions gathering hundreds of thousands or even millions of workers.

From the outset of labour organising, sex workers have been excluded from trade unions. While since the early 2000s some trade unions in Europe have opened branches for workers in the sex industry, in most European countries sex workers are still denied to join a union or create their own. However, many sex workers collectives have developed their own, often informal, unions - often outside of mainstream trade union bodies. Self-organisation of sex workers through trade unions can bring crucial improvement to sex workers' living and working conditions and offer valuable means to better self-organise within the sex industry.

Although the full decriminalisation of sex work is globally the priority demand of the sex worker movement, it is only the first legal step to combat exploitation in the sex industries which requires strong labour and trade union organising. This brief guide thus intends to provide labour rights activists and trade unionists interested in including sex workers in their fight for labour rights with basic information on the struggle for the recognition of sex work as work and the correlation between the criminalised nature of the sex industry and labour exploitation.

WHAT IS SEX WORK? WHO ARE SEX WORKERS?

Sex work is work, a form of livelihood and economic activity. Sex workers consensually exchange their own sexual labour or sexual performance for compensation. Workers in the sex industry constitute a heterogeneous group of individuals of all genders who decide to engage in sex work for many different reasons. Some might decide to work in the sex industry because it allows for more flexible working hours and gives them greater control over their working conditions than other jobs. Others choose sex work because they find it financially rewarding. For other sex workers again, it may be the most acceptable of very few options available to them which enables them to provide a living for themselves and their families.

Sex work is a typical informal economy job in that it does not benefit from legal protection through the state. It mainly employs women, often (undocumented) migrants; entry requirements are low in terms of capital and professional qualifications; and skills needed for the job are often acquired outside of formal education. Many sex workers enter the sex industry as they are excluded from the formal economy or state benefits to achieve a decent standard of living. Similarly to other sectors of the informal economy, most sex work is precarious employment, characterised by insecurity and exploitative conditions, and can include illegalised, seasonal, and temporary employment as well as home work, temp-work, sub-contracting and self-employment.



Sex workers wearing masks hold placards reading 'Sex work is work', 'Legalisation but not criminalisation', 'My work is my choice' at a protest in front of the Ukrainian parliament in Kiev, Ukraine on the 3rd of March 2017.

Photo credit: Valentyn Ogirenko / REUTERS

WHO ARE THIRDS PARTIES?

The category includes a range of individuals, including but not limited to, managers, brothel keepers, receptionists, maids, drivers, landlords, hotel owners and managers who rent rooms to sex workers and website operators who run sites where sex work is advertised. All of these third party relations significantly shape sex workers' labour arrangements and working conditions. Third parties usually, but not always, profit from the management or facilitation of sex work and benefit from sex workers' labour, income, time and skills. Many third parties can also be current or former sex workers themselves.

HOW ARE SEX INDUSTRIES REGULATED IN EUROPE?

In the vast majority of European countries, the legal approach to regulate the sex industry is based on moralistic notions rather than labour rights perspectives, either viewing sex workers as immoral individuals or helplessness victims of male violence instead of workers in the first place. Sex industries are criminalised in a myriad of ways, including through the direct criminalisation of sex workers themselves, e.g. by outlawing soliciting or advertising of sexual services; the criminalisation of their clients, through "End Demand" models; or the criminalisation of third parties, by penalising or criminalising those who facilitate or profit from sex workers' labour, e.g. through "pimping" and brothel-keeping laws.¹

Even in contexts that render sex work legal as a form of labour, sex workers face increasingly meticulous state control and surveillance through coercive legislation. This can manifest itself in legal obligations requiring the mandatory registration of sex workers, restrictions on the location, number and rules of operation of sex work businesses, as well as laws determining who may provide sexual services and under what conditions. Sex workers who do not want to or cannot comply with the often discriminatory and oppressive regulations are facing punishment in the form of administrative or criminal sanctions, including fines, prosecution or even imprisonment.

WHAT FORMS OF LABOUR EXPLOITATION DO SEX WORKERS FACE?

Widespread criminalisation and the lack of legal recognition of sex work as work force many sex workers to operate in the informal sector or outside the formal economy.² In settings where sex work is legalised or regulated, continued high levels of stigma and anti-sex work sentiment prevent many sex workers from registering and working in the formal economy, rendering their labour conditions and struggles practically 'invisible'.

Job insecurity

Significant numbers of sex workers in Europe are engaged in insecure, irregular and flexible labour arrangements, which do not grant them certainty of employment or income stability. Many sex workers work without having signed

an employment contract with their respective employer or venue owner. Additionally, numerous employment relationships are based on disguised or 'phony' contracts, which wittingly conceal the nature of the labour and the character of the services involved. Others register as self-employed and still end up performing work and bearing responsibilities typically associated with regular (and legally protected) labour arrangements.

Lack of benefits

As a consequence, sex workers rarely enjoy welfare benefits and work-related social and financial provisions usually secured within standard employment relationships. Thus, they do not have access to benefits such as accident compensations, sick leave, parental leave, paid holiday leave, pension benefits or disability allowances, and have to cover such expenses by themselves and bear other financial consequences resulting from them. In numerous countries in Europe, sex workers are also not being provided with health and social insurances and face severe legal and economic barriers when trying to obtain them, since these are frequently granted in connection to one's residency and employment status or work relationship.

Economic exploitation and bad working conditions

Sex workers' income, safety, welfare and well-being at work is frequently compromised by employers, managers, agents and venue owners. Due to laws criminalising procuring, managerial involvement in sex work, brothel keeping, facilitating sex work or living off the earnings of sex workers, prevalent in most European countries, third parties are at risk of imprisonment or heavy fines. Thus, they tend to focus on protecting and increasing their profits rather than the safety and wellbeing of sex workers, and frequently shift the risks related to running an illegal business onto them. Since sex work is often criminalised or not recognised as a legitimate occupation, it is not covered by occupational health and safety or other labour laws that hold employers accountable for safeguarding the respective work environments in their businesses.

WHAT OTHER LABOUR CONCERNS ARE IMPORTANT FOR SEX WORKERS?

Many people decide to work in the sex industry as one of the few strategies available in a difficult economic context. This is particularly true for working class women, trans people, ethnic minorities, people of color and (undocumented) migrants who are discriminated against or excluded from more formal sectors of the economy. As a result, a high proportion of sex workers might face discrimination and violence from clients, third parties and other actors in their work, based on their gender, gender identity, gender expression, sexual orientation, ethnicity, migration status and other personal characteristics.

Estimates indicate that in some West-European countries, migrants, often in irregular situations, constitute a significant portion of sex workers. Repressive immigration policies and restrictive residency and employment regulations adopted in most European countries often severely compromise or entirely block migrants', refugees' and asylum-seekers' access to formal labour markets and legitimate forms of employment.³ Consequently, they have no other options than agreeing to low-wage, precarious and exploitative labour arrangements outside of the formal economy, often in sex work. (Undocumented) migrant sex workers face specific problems, including language barriers, lack of access to housing, health, social services and heightened levels of violence.

HOW DOES DECRIMINALISATION PROMOTE LABOUR RIGHTS?

In recent years, numerous organisations working in the fields of human rights, health, LGBTQ rights, women's rights or migrants' rights, as well as trade unionists and representatives of the workers' movement have expressed their support for sex work decriminalisation and spoken out against the adverse effects of the criminalisation of sex workers, their clients and third parties. These include Amnesty International, Human Rights Watch, AIDS Action Europe, Transgender Europe, several United Nations (UN) agencies and the World Health Organisation (WHO).

Decriminalisation, the removal of all laws that criminalise any aspect of sex work, is recognised as the best legal framework to advance sex workers' labour rights by the global sex worker movement. Decriminalisation does not mean the removal of laws that target human trafficking, coercion and violence against sex workers. When sex work is governed through the same laws as other professions, workers are able to work as independent contractors or as employees, negotiate employment contracts, organise collectively and challenge exploitative labour practices. Furthermore, in the decriminalisation framework third parties must obey occupational health and safety regulations.⁴

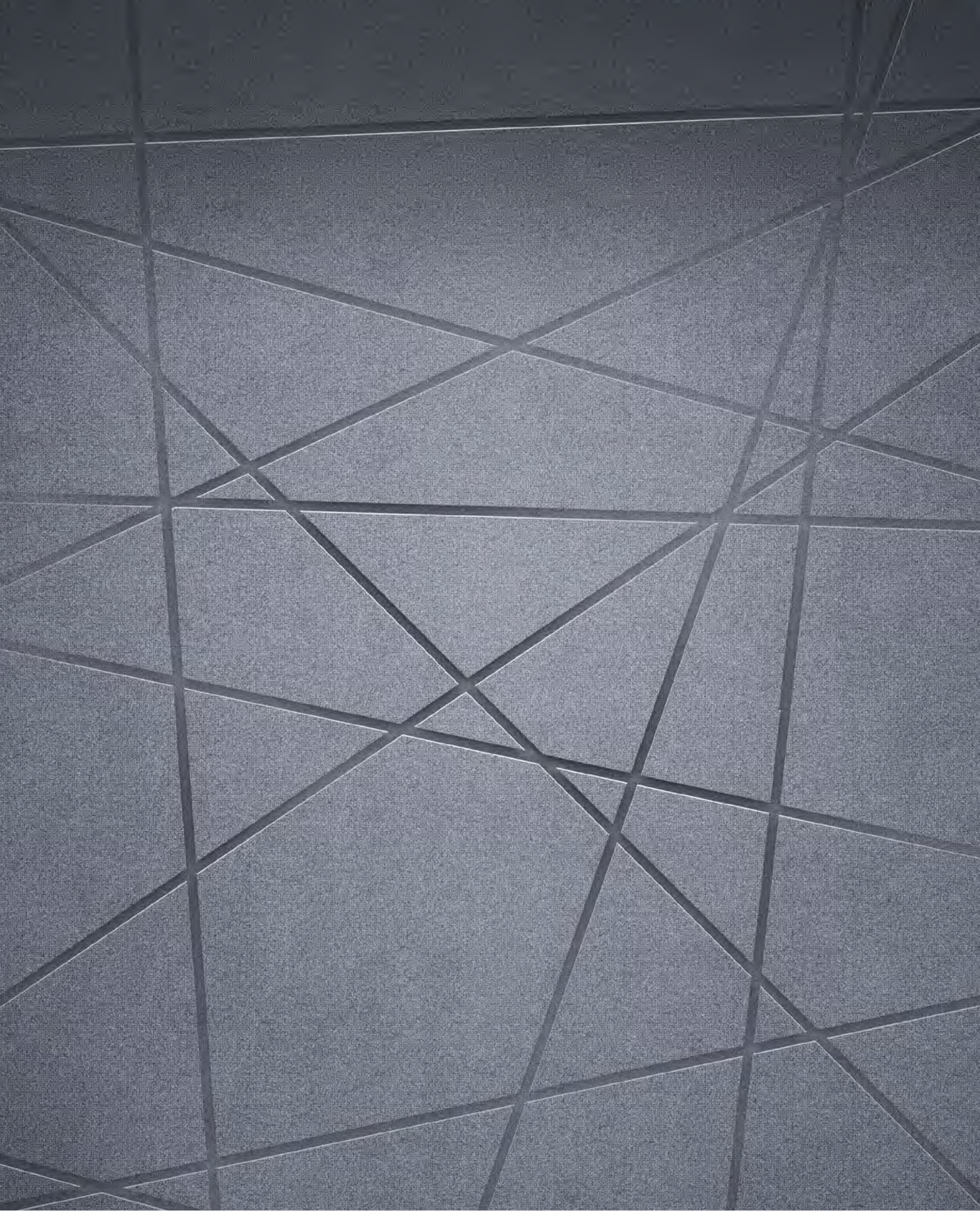


Protester at a sex worker march organised by STRASS, the French Union of Sex Workers.
Photo credit: Bertrand Langlois/Getty

Since the sex industry was decriminalised in New Zealand, sex workers have gained access to employment protections and have become empowered to take their managers to the Disputes Tribunal if they engage in exploitative practices. Sex workers also have wider protections from discrimination and harassment. For example, in 2014, a sex worker won a case of sexual harassment taken against the manager of a brothel in Wellington. The Human Rights Tribunal awarded her NZ\$25,000 compensation for “humiliation, loss of dignity and injury to feelings”.⁵

7 STEPS TO MAKE LABOUR RIGHTS ORGANISATIONS SEX WORKER INCLUSIVE

- 1** Reach out to and establish contacts with local sex workers, sex worker groups and organisations in order to identify how their labour rights are violated and assess how the legal framework in place contributes to exploitation in the sex industry.
- 2** When providing legal advice and aid, include information and expertise on criminal and administrative laws that are relevant to sex work.
- 3** Respect the confidentiality of sex workers in any activity that you organise and proactively prepare measures to protect the identity of sex workers, including undocumented workers, e.g. in public marches, demonstrations and membership processes.
- 4** Design your services so that they take into consideration the specific needs sex workers have, based on consultations and partnership with sex worker groups and organisations.
- 5** Provide safe and confidential places where sex workers from different backgrounds can meet and discuss their experiences, working conditions and prioritise issues they want to challenge.
- 6** Raise awareness in your advocacy activities on the precarious situation and exploitation sex workers face due to the criminalisation of the sex industry.
- 7** Speak out for the full decriminalisation of sex work, highlighting the hazardous and abusive conditions sex workers of all genders might face in their work.



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