

Amnesty Prostitution Policy document

Leaked Amnesty International doc on their intention to adopt the policy that "sex work" should be decriminalised.

Decriminalization of Sex Work: Policy Background Document

I.

Policy Overview

Amnesty International is opposed to the criminalization or punishment of activities related to the buying or selling of consensual sex between adults. Amnesty International believes that seeking, buying, selling and soliciting paid sex are acts protected from state interference as long as there is no coercion, threats or violence associated with those acts. Legitimate restrictions may be imposed on the practice of sex work if they comply with international human rights law (*i.e.*, they are for a legitimate purpose, appropriate to meet that purpose, proportionate and non-discriminatory).

Amnesty International believes states have a positive obligation to reform their laws and develop and implement systems and policies that eliminate discrimination against those engaging in sex work. Additionally, states must actively seek to empower the most marginalized in society, including through supporting the rights to freedom of association of those engaging in sex work, establishing frameworks that ensure access to appropriate, quality health services and safe working conditions, and through combating discrimination or abuse based on sex, sexual orientation and/or gender identity or expression.

Amnesty International understands the imperfect context in which individuals choose to become sex workers (or miners or foreign domestic workers). We know that some individuals engaged in sex work do not have the necessary resources or information to leave commercial sex work when they want to. At the same time, we believe human rights principles requires policy-makers to value the voices of those who are directly affected by inequality and discrimination. We believe that policies which purport to support and improve the situation of the resource-poor must focus on empowering the disenfranchised and directly addressing structural disadvantages such as poverty, not on devaluing their decisions and choices or criminalizing the contexts in which they live their lives. We believe that a policy based on human right principles that values the input and experiences of sex workers is the most likely to ensure that no one enters or stays in sex work involuntary.

Amnesty International considers children involved in commercial sex acts to be victims of sexual exploitation, entitled to support, reparations, and remedies, in line with international human rights law. States must take all appropriate measures to prevent violence and exploitation of children. The best interests of the child should, in all cases, be a primary consideration and the state should preserve the right of the child to be heard and to have his or her views given due weight in accordance with their age and maturity.

See Amnesty International's policy on decriminalization of sex work for a more detailed explanation of the organization's policy position.

II.

Key Definitions

Sex work. The exchange of sexual services for some form of remuneration. Notably, the terms “sex work” and “prostitution” are sometimes used interchangeably. Many sex workers feel the term “prostitute” is demeaning and organized sex worker groups generally prefer the term “sex worker” or “person in the sex industry.” Others utilize the term “prostitution” to reclaim and/or destigmatize the term and practice. Where possible, Amnesty International will use the terminology of “those engaging in sex work” or the prevailing terminology used in a particular context. Where referring to the general situation or policy, Amnesty International prefers the term “sex work” and “sex worker.”

Sex worker. Many jobs involve using some aspect of sexuality for economic gain. Throughout this policy, we refer to “sex workers” as those who exchange sex acts for money or some other form or remuneration (*i.e.*, food or shelter). While “sex acts” are not solely limited to “intercourse,” for purposes of this policy, the phrase is interpreted to exclude dancing and the production of sexually explicit entertainment such as pornographic films and materials, where all individuals engaged in the production of such material are remunerated.¹ Moreover, the term “sex worker” is intended to be gender neutral, as both men and women provide commercial sexual services.

Child. For the purposes of this policy, “child” means anyone under the age of 18, regardless of the age of majority in a specific country, as established in international law.

Criminalization. State authorities use a variety of methods to discourage certain behaviour, ranging from financial incentives to the imposition of criminal sanctions. For the purposes of this policy, “criminalization” means measures that seek to punish sex workers and clients through the threat of sanctions such as detention, fines, or exclusion from benefits or care.¹ Pornography and other sexually explicit material are distinguished from sex work and not specifically included within this policy because in addition to involving remuneration for individuals involved in the production of such material, there is no identifiable paying client. The policy exclusion does not indicate in any way that Amnesty International condones violence, threats or coercion that may accompany the production of pornography and other sexually explicit material. Rather, Amnesty International would similarly scrutinize such conduct in accordance with international human rights principles and standards. Dancing and other sexually explicit entertainment are distinguished from sex work as they are protected activities as a form of expression.

III. Additional Context

Amnesty International Policy on Sex Work

Amnesty International does not take a position on the morality of sex work. Our focus is on how to ensure that all human beings, including those who engage in sex work, are most empowered to claim their rights and live free from fear, violence and discrimination. Amnesty International believes individuals are entitled to make decisions about their lives and livelihoods,

and that governments have an obligation to create an enabling environment where these decisions are free, informed, and based on equality of opportunity.

Amnesty International is also acutely aware that in a world in which 3 billion people live on less than \$2.50 a day, and 80% of the global population live in countries where income differentials are widening, individuals make transactional arrangements with regard to sexual relationships that are not always a matter of direct coercion, but rather a reflection of limited options. This is particularly true for girls, women and other individuals who are marginalized. Marginalized individuals do not enjoy the equal protection of the law and are often greatly disadvantaged in their ability to claim their rights, including their right to effective remedies for rights violations.

Amnesty International neither judges those choices nor attempts to negate them, because to do so would ignore the ways that individuals act thoughtfully and deliberately to, at a minimum, survive or to empower themselves. Amnesty International observes that criminalizing or otherwise punishing people for their choices in selling or buying consensual sex in any way fails to address these structural inequalities, and rather serves to further disempower individuals.

Amnesty International does not take a position on whether sex work should be considered “work” for the purposes of regulation, though some individuals clearly engage in commercial sex acts to earn a living. However, any regulation of sex work must aim at guaranteeing that individuals who undertake sex work do so voluntarily and in safe conditions, and are able to stop engaging in sex work when and if they choose to.

Human trafficking into forced prostitution, or any other aspect of non-consensual sex, should be criminalized as a matter of international law. Victims of such crimes are entitled to protection and remedies, regardless of their sex, nationality, health status, sexual orientation, gender identity, prior work history, willingness to contribute to prosecution efforts, and/or other factors. Amnesty International believes that the conflation of sex work with human trafficking leads to policies and interventions which undermines sex workers’ sexual autonomy, and causes them to be targets of exploitation and abuse, as well as may enable violation of their human rights. The disproportionate focus on trafficking into forced prostitution by some governments also ignores the human rights violations suffered by people trafficked into domestic work, construction, agricultural work, or other forced work, in which they often suffer a range of violations, including exploitation and violence. It further ignores that some people who are trafficked into other forms of forced labour are often subjected to sexual abuse and violence.

Amnesty International believes that human trafficking laws and policies should clearly reflect that trafficking is a crime and a human rights violation. By contrast, laws and policies on adult sex work should reflect that those who voluntarily engage in sex acts, regardless of whether remuneration is involved, are exercising their autonomy, and as such, should be permitted to do so free from interference from the government.

As stated in the Amnesty International policy, any child who is engaged in commercial sex work should be treated by the government as a victim and the best interest of the child should define all government interventions on behalf of that child.

IV. Key Background

Criminalization and Punishment of Sex Work

Across the world, people who engage in sex work are subject to criminal sanctions in three general ways.

First, states criminalize the selling of sexual services, with the imposition of penalties upon sex workers themselves.

Second, and more commonly, states impose criminal or other sanctions on activities related to sex work. Such sanctions are applied to those who keep a brothel, procure or buy sexual services, recruit for or arrange the prostitution of others, live off the proceeds of sex work, or facilitate sex work through the provision of information or assistance. Sanctions are often attached to the act of solicitation, rather than the selling of sex itself.

Third, authorities use other laws, not specific to sex work, to harass, intimidate or justify the use of force against or exploitation or arrest of individuals engaged in sex work. Laws on vagrancy, public lewdness, public nuisance, homosexuality, cross-dressing and gender expression are all used against people engaged in sex work. In many cases, the mere existence of these laws — even if they are rarely applied — is used to justify the harassment and extortion of sex workers both by police and others. Those individual sex workers who are non-gender conforming, or who work in public spaces such as on the street or in bars, are at increased risks of being targeted for harassment or extortion.

The Swedish Model and Other Regulatory Approaches to Sex Work

The criminalization of the clients of sex work, but not the sex workers themselves, is sometimes referred to as the “Swedish Model,” as it was prominently adopted by Sweden in the late 1990s.² This approach is also taken by the governments in Norway, Iceland, Nepal, India, Korea, Finland, and Israel. At present, the French government is considering adopting this approach to sex work, as is the government of Argentina. Some countries impose criminal sanctions on both the sex worker and the client. Most countries in Asia, Africa, and the Middle East impose some form of penal sanctions on activities related to sex work. Sex work is legal, but subject to some restriction, in New Zealand, parts of Australia and the United States of America, the Netherlands, and Denmark, and in practice, in other countries where non-legislative policing or sentencing “tolerance” agreements exist.

² As noted within Amnesty International’s policy on sex work, the organization is opposed to criminalization of all activities related to the purchase and sale of sex. Sexual desire and activity are a fundamental human need. To criminalize those who are unable or unwilling to fulfill that need through more traditionally recognized means and thus purchase sex, may amount to a violation of the right to privacy and undermine the rights to free expression and health.

Around the world, laws on sex work have been developed from contradictory intentions to simultaneously punish and/or help sex workers. These conflicting laws reflect confusion, ambivalence and fear about sex, desire, and women's sexual autonomy.

Some argue that sex work, or prostitution, is inherently a form of violence against women that must be eradicated.³ Their rationale is that those who claim to sell sex voluntarily are coerced to do so by circumstances or by structural disadvantages that they may be blind to such as poverty or gender inequality. Consequently, the men and women who buy sex are seen as perpetrating abuse through maintaining unequal power-structures that keep sex workers disadvantaged, whether or not they are aware of it or believe themselves to be doing so. From this perspective, the individual selling sex is considered to lack agency and to be a victim of violence. This analysis largely ignores the complexity of human sexual interactions particularly those that do not fall within the framework of traditional heterosexual relationships in which the man is presumed to be the more powerful actor.

Others rely on principles of autonomy to assert that not all sex work is akin to violence. They interpret testimony of sex workers who report that they engage in sex work voluntarily as evidence of "consent," when no evidence of violence or direct coercion exists.⁴ Their rationale is that the circumstances that lead some adults to engage in commercial sex acts are no less legitimate than those that lead others to make decisions regarding how to earn a livelihood, best provide for oneself and their family, and/or express their sexuality.

Along similar lines, men and women who buy sex from consenting adults are also exercising personal autonomy. For some — in particular persons with mobility or sensory disabilities or those with psycho-social disabilities that hamper social interactions — sex workers are persons with whom they feel safe enough to have a physical relationship or to express their sexuality. Some develop a stronger sense of self in their relationships with sex workers, improving their life enjoyment and dignity. At a very basic level, expressions of sexuality and sex are a primary component of the human experience, which is directly linked to individuals' physical and mental health. The state's interference with an adult's strategy to have sex with another consenting adult is, therefore, a deliberate interference with those individuals' autonomy and health.

At times, sex work is conflated with trafficking, leading to coercive or overreaching interventions such as brothel raids or "rescues" that often violate human rights and actually decrease the safety for sex workers.⁵ For example, such interventions may drive people engaged in sex work away from established sex work collectives or contribute to them moving

³ See, for example, the justification of the European Women's Lobby's recent campaign, "Together for the Europe Free of Prostitution," at <http://www.womenlobby.org/spip.php?rubrique187> (accessed on 8 January 2012).

⁴ See John Goodwin, *Sex Work and the Law in Asia and the Pacific*, UNDP/UNAIDS/SNAP, 2012, at <http://www.snap-undp.org/elibrary/Publications/HIV-2012-SexWorkAndLaw.pdf> (accessed on 8 January 2012).

⁵ See UNAIDS Guidance Note on HIV and Sex Work, available at: http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf (accessed on 6 May 2013).

continually from one place to another, undermining the connections and social fabric that can help keep them safe.

Health Considerations

People engaged in sex work are often presumed to face particular health risks because of their work they do. These include an additional risk of contracting sexually transmitted infections, being subjected to violence and abuse by police and clients, and health complications specifically related to working in public spaces for street-based sex workers (*i.e.*, pollution, lack of access to sanitation, constant standing, *etc.*).

While individuals engaged in sex work may face increased health risks, these risks are less related to the act of sex work itself, and more to the policies, practices, and cultural biases that limit their health-related decisions and choices, and access to health services. In other words, while sex work carries certain risk factors, these are exacerbated by the threat of criminal sanctions and stigma attached to sex work in many jurisdictions. For example, the criminalization of sex work adds to rather than subtracts from, the risk of police abuse and extortion.⁶ Additionally, the use of condoms as evidence in criminal cases against those accused of sex work has shown to detract from sex workers' ability to protect themselves against sexually transmitted infections.⁷

The blanket criminalization of the clients of sex work, or of support functions such as body guards and receptionists, has also proven to drive those engaged in sex work underground, increasing the risk of violence and abuse. Where aspects of sex work remain criminal, those engaging in sex work are less inclined to seek both routine care and urgent protection.⁸ Moreover, the criminalization of "living off the proceeds of prostitution," while perhaps intended to cover those who exploit sex workers, has been shown to apply to both help-functions (guards, receptionists, landlords), as well as roommates, family, and even children.⁹

IV. Human Rights Legal Context

⁶ WHO, (2005), Violence Against Women and HIV/AIDS: Critical Intersections, Violence Against Sex Workers and HIV Prevention, Information Bulletin Series, No 3, available at: <http://www.who.int/gender/documents/sexworkers.pdf>

⁷ PROS Network and Leigh Tomppert, (2012), *Public Health Crisis: The Impact of Using Condoms as Evidence of Prostitution in New York City*, PROS Network and the Sex Workers Project at the Urban Justice Center, available at: <http://sexworkersproject.org/downloads/2012/20120417-public-health-crisis.pdf>.

⁸ See, for example, UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, Human rights Council, Fourteenth session, Agenda item3, para 35. A/HRC/14/20, April 27, 2010; available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf>

⁹ Crago AL (2008), *Our Lives Matter Sex Workers Unite for Health and Rights*, Open Society Institute, available at: <http://www.opensocietyfoundations.org/reports/our-lives-matter-sex-workers-unite-health-and-rights> (accessed on 20 March 2013); Oishik Sircar and Debolina Dutta, *Beyond Compassion: Children of Sex Workers in Kolkata's Sonagachi*, 18 CHILDHOOD 3, 333-49 (2011).

The criminalization of voluntary sex between adults, whether for direct monetary gain or otherwise, threatens the rights to health, non-discrimination, equality, privacy, and security of person. In addition, the right to freely chosen gainful work (Article 6, ICESCR) may be jeopardized by the criminalization of sex work.

International human rights law stipulates that everyone is entitled to safe and healthy working conditions (Article 7(b), ICESCR), including those who are self-employed or who make their living in informal setting such as selling fruit on the side of the road or bartering repair services, or, indeed, through exchanging sex for remuneration. Safe working conditions in such circumstances could include adequate access to clean water in public spaces, public sanitation services, street security, and otherwise. These factors often overlap with obligations to guarantee adequate underlying determinants of health, which are critical to the right to health more generally.

International human rights law also confers the right to privacy, which has been applied to some extent to sexuality and individuals' autonomous decisions with regard to their bodies (Article 17(1)(2), ICCPR; Article 16(1)(2), ICRC; Article 22(1), ICRPD; *K.L. v. Peru*, CCPR/C/85/D/1153/2003 at [6.4] and [6.5]; CESCR, General Recommendation 24).

At least one human rights body has directly applied the right to privacy to sex outside of the confines of marriage. For example, the Human Rights Committee in *Toonen v. Australia*, held that laws criminalizing same-sex activity in private were in breach of the ICCPR. Notably, the Committee rejected the government's public morality justification for its criminal law. Moreover, the Committee's reasoning did not solely focus only on sexual orientation-based discrimination, but rather it found a violation of the right to privacy because the laws interfered with adult consensual sex in private. This reasoning suggests that all laws prohibiting sex outside marriage may be in breach of Article 17 (privacy) of the ICCPR. While no human rights instruments explicitly address the right to privacy in the context of sex work, standards and interpretations that apply this right in the context of expression of sex, sexuality and gender identity can be applied to recognize certain aspects of sex work that invoke aspects of privacy. Specifically, governments would need to articulate a compelling state interest in interfering in individual sexual interactions.

The right to privacy is illusory for those who live in grave poverty and for other marginalized individuals and communities. The enforcement of laws on vagrancy, public nuisance and public lewdness is often a badly disguised attack on people simply because they are poor. The appropriate response of the state should be to fulfill the right to adequate housing as well as public sanitation – not to criminalize those who live their lives without adequate shelter. Additionally, sex work often takes place in public spaces, where individuals struggle to avoid public scrutiny and policing. Nevertheless, to the extent that sex work invokes principles of privacy, such protections should be applied.

Article 6 of the Convention on the Elimination of all Forms of Discrimination against Women requires states to protect women and girls against “exploitation of prostitution.” CEDAW does not define the terms “exploitation” or “prostitution.” The language used in Article 6 suggests that not all instances of sex work are inherently exploitative. When the text of CEDAW was being

drafted, a proposal for the amendment of article 6 to call for the abolition of prostitution in all its forms was rejected. The CEDAW Committee has consistently over time expressed concern with the criminalization of women engaging in sex work, while noting, in line with the Convention text, that criminal sanctions should be reserved for those who profit from the exploitation of prostitution.¹⁰ The Committee has not, over time, taken a consistent approach to whether or not the clients of sex work should be criminalized.

That said, the overwhelming majority of comments on this issue seem to indicate that the Committee believes only exploitation should be punished, and that not all clients are exploitative. The Committee is very clear in its expectations that State Parties provide proper opportunities for women and girls to leave sex work when they want to.

The right to health contains both freedoms and entitlements, including the “right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference,” as well as “equality of opportunity for people to enjoy the highest attainable level of health.”¹¹ Like other rights, the right to health is subject to non-discrimination guarantees, including the right to non-discrimination on the basis of sex, property, or other status. The CEDAW committee has recommended that special attention should be given to the health rights of women belonging to vulnerable groups, which include “women in prostitution.”¹²

The criminalization of sex work and related activities has increasingly been recognized as a major impediment in the global fight against HIV/AIDS¹³ because it prevents sex workers — and sometimes their clients — from taking necessary precautions to lower the risk of transmission, and it serves as a chilling effect to deter sex workers from testing or seeking treatment for fear of arrest.

The importance of recognizing and promoting sex workers’ human rights is a basic building block of sound HIV prevention as reflected in the policy positions of the Global Fund to Fight AIDS, Tuberculosis and Malaria and the Joint United Nations Programme on HIV/AIDS (UNAIDS). The UNAIDS strategy for 2011-2015, *Getting to Zero*, commits UNAIDS and its cosponsors to empower sex workers and push for the repeal of punitive laws, policies, practices,

¹⁰ See, for example, CEDAW Committee, Concluding Observations on Fiji, 17 and 22 January 2002, UN Doc A/57/38, paras. 64-65; Concluding Observations on Hungary, 20 August 2002, UN Doc A/57/38, paras. 323-324; Concluding Observations on Kenya, 27 July 2007, UN Doc CEDAW/C/KEN/CO/6, paras 29-30; Concluding Observations on Republic of Korea, 31 July 2007, UN Doc CEDAW/C/KOR/CO/6, paras. 19-20; Concluding Observations on France, 1 February 2008, UN Doc CEDAW/FRA/CO/6, paras. 30-31; Concluding Observations on Germany, 2 February 2009, UN Doc CEDAW/C/DEU/CO/6, paras. 49-50; Concluding Observations on Japan, 7 August 2009, UN Doc CEDAW/C/JPN/CO/6, para. 39.

¹¹ Committee on Economic, Social, and Cultural Rights, “General Comment No. 14 (2000), The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights),” E/C.12/2000/4, 11 August 2000, para. 8.

¹² CEDAW Committee, General Comment 24, Women and health.

¹³ Global Commission on HIV and the Law “Risks, Rights & Health”, (UNDP, 2012) p.38.

stigma, and discrimination that block effective HIV responses.¹⁴

In 2008, the Independent Commission on AIDS in Asia called for the removal of legislative, policing, and other barriers that prevent sex workers from organizing collectives, and asked donors to remove conditionalities that prevent partners from working with sex worker organizations.¹⁵ In 2009, the Independent Commission on AIDS in the Pacific called on countries to “undertake progressive legislative reform to repeal legislation that criminalizes high-risk behaviour[, identified in report to include sexwork].” The Commission noted that “[c]hanging the laws need not imply approval of the behaviour but would signal a greater concern for people.”¹⁶ More recently, in 2012, the Global Commission on HIV and the Law¹⁷ recommended the decriminalization of sex work and called for laws and policies to ensure safe working conditions to sex workers.¹⁸

Criminalizing elements of buying or selling of adult consensual sex also threatens the right to liberty and security of person where sex workers or their clients are arbitrarily detained or held in shelters or “re-education centers” from where they cannot leave voluntarily. Any person detained on grounds that are not in accordance with the law is detained arbitrarily and therefore unlawfully. Detention can also amount to arbitrary detention, even if it is authorized by law, if it includes “elements of inappropriateness, injustice, lack of predictability and due process of law.”¹⁹ The UN Human Rights Committee has determined that legally authorized detention must be reasonable, necessary and proportionate taking into account the specific circumstances of a case.²⁰

¹⁴ UNAIDS Strategy 2011-2015, “Getting to Zero,” (UNAIDS: Geneva, 2010), p. 7. UNAIDS issued an updated Guidance Note on HIV and Sex Work in 2009 and some additional Annexes to the Guidance Note in 2001. See UNAIDS, Guidance Note on HIV and Sex Work (Annexes included), available at http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UN_AIDS-guidance-note-HIV-sex-work_en.pdf (accessed on 6 May 2013). In addition to calling for the reduction of demand for unprotected paid sex, differentiation between trafficking and sex work, and economic empowerment of sex workers, the Guidance Note calls for removal of all penalties for sex work. While the Annexes contained within the updated Guidance Note are not necessarily “policy positions” of the various UN bodies represented by UNAIDS, the statements contained within the Annexes are the most far-reaching for the UN with regard to sex work.

¹⁵ The Commission on AIDS in Asia, “Redefining AIDS in Asia: Crafting an Effective Response,” (Oxford University Press: New Delhi, 2008), p. 187, para. 5.3.

¹⁶ The Commission on AIDS in the Pacific, “Turning the Tide: An Open Strategy for a response to AIDS in the Pacific,” (UNAIDS: Bangkok, 2009), p. 89, para. 4.

¹⁷ The Global Commission on HIV and the Law was an independent expert body created under UN auspices to develop actionable, evidence-informed and human rights-based recommendations for effective HIV responses that promote and protect the human rights of people living with and most vulnerable to HIV.

¹⁸ Global Commission on HIV and the Law, “Risks, Rights & Health,” (UNDP: New York, 2012), p. 99.

¹⁹ See, Communication No. 458/1991, *A. W. Mukong v. Cameroon* (Views adopted on 21 July 1994), in U.N. doc. GAOR, A/49/40 (vol. II), p. 181, para. 9.8.

²⁰ *Van Alphen v. The Netherlands*, Communication No. 305/1988, adopted 15 Aug. 1990, U.N. GAOR, Hum. Rts. Comm., 39th Sess., ¶ 5.8, U.N. Doc. CCPR/C/39/D/305/1988 (1990); *A v. Australia*, Communication No. 560/1993, adopted 30 Apr. 1997, U.N. GAOR, Hum. Rts. Comm., 59th Sess., ¶ 9.2, U.N. Doc. CCPR/C/59/D/560/1993 (1997).

In the context of migration, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families applies to sex workers who travel between States to engage in sex work, regardless of whether this immigration is legal or illegal. International law is clear with regards the prohibition on the involvement of children — that is all those under 18 — in commercial sex acts. This prohibition is spelled out through the Convention on the Rights of the Child, its Optional Protocol on the sale of children, child prostitution, and child pornography, and in ILO Convention Number 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Under these treaties, states are obliged to protect children from economic exploitation, sexual exploitation, and any work that is likely to be hazardous or harmful to a child's health or physical, mental, or social development.²¹ The “use, procuring, or offering” of a child for prostitution or pornography is considered a “worst form of child labor,” for which states shall design and implement action programs to eliminate as a priority.²² States are also required to criminalize “offering, obtaining, procuring or providing a child” for use “in sexual activities for remuneration or any other form of consideration.”²³

Importantly, states must “take all feasible measures” to ensure that all children who have been involved in sexual activities for remuneration or any other form of consideration receive “all appropriate assistance... including their full social reintegration and their full physical and psychological recovery.”²⁴ Such assistance should include the “necessary and appropriate direct assistance for the removal of children” from such work and ensuring “access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labor.”²⁵

Further reading:

<http://www.opensocietyfoundations.org/sites/default/files/sex-work-laws-policies-20120713.pdf>

<http://www.snap-undp.org/elibrary/Publications/HIV-2012-SexWorkAndLaw.pdf>

<http://www.opensocietyfoundations.org/sites/default/files/decriminalize-sex-work-20120713.pdf>

<http://www.globalizationandhealth.com/content/6/1/1>

²¹ CRC arts. 32(1) and 34.

²² ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), arts. 3(b) and 6(1).

²³ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, (Optional Protocol CRC SC), adopted May 25, 2000, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol.III (2000), entered into force January 18, 2002, ratified by Cambodia May 30, 2002, arts. 2(b) and 3(1)(b).

²⁴ Ibid, art. 9(3).

²⁵ ILO Convention 182, arts. 7(2)(b) and (c).