



THE HUMAN COST OF

‘CRUSHING’ THE MARKET

CRIMINALIZATION OF SEX WORK IN NORWAY
EXECUTIVE SUMMARY

AMNESTY
INTERNATIONAL



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Cover photo: Empty street in Oslo in area where sex is sold.

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EXECUTIVE SUMMARY

“Last year was really hell for me.” That’s how Mercy, a Nigerian sex worker, described her experiences of discrimination, social exclusion and human rights abuses in Norway. Her story culminated in her being forcibly evicted from her home in 2014. The fact that Mercy was made homeless, without any due process or notice, constitutes a human rights violation under international law. That the forced eviction occurred as a direct result of Mercy reporting a rape and violent robbery that she was a victim of, makes the treatment she received as a sex worker in Norway even more egregious. She told Amnesty International:

“A little guy came to the house with a knife. I answered the door. There were nine of us in the house. He threatened us with a knife and robbed our money and phones... He forced us to have sex with him. The police took two or three hours to come. They took us all to hospital and got us a hotel for two nights. Later, we went back to the house and, two days later, the landlord threw us out... The police put pressure on the landlord. She gave us half a day to get out... I had to wander around Oslo for hours with my bags until I found somewhere to stay”

Mercy, a Nigerian sex worker working in Oslo

Mercy’s story is not an isolated case. Amnesty International learned of another violent robbery carried out against three women selling sex around the same time in March 2014 who were rapidly deported from the country after they reported the incident to the police.

Amnesty International is deeply concerned that sex workers, a group that is recognized globally as being at increased risk of stigmatization, marginalization and violence, can face penalization in Norway when they report serious crimes. Norway is a country which prides itself on its strong human rights record at home and internationally and is a state party to all major UN and European human rights treaties relevant to the issues raised in this report. Norway is also a country that in recent decades has debated sex work issues and amended its legal framework.

The legal model adopted by the Norwegian government is promoted as one that encourages protection of people who sell sex, shields them from criminalization and instead shifts the criminal burden of blame to buyers of sex. Despite this, Amnesty International has found evidence of human rights abuses against

people who sell sex in Norway that are compounded by and, in some cases, directly caused by the legal framework. Amnesty International spoke with sex workers who had experienced violations of the right to housing, the right to security of person, the right to equal protection of the law, the right to health, the right to non-discrimination and the right to privacy. The issues described in this report demonstrate that Norway is not implementing its international obligations to respect, protect and fulfil the rights of people who sell sex.

HOW WE CONDUCTED OUR RESEARCH

This report is the result of three weeks of interviews undertaken in Oslo, Norway, between November 2014 and February 2015, as well as desk-based research. Amnesty International conducted a total of 54 interviews; 30 of which were with women who currently or previously sold sex. Three women Amnesty International interviewed described experiences of trafficking. Amnesty International also met with representatives of multiple agencies that provide social support services to people who sell sex. Interviews were conducted with government agencies including the Ministry of Justice and Public Security, the Oslo police district, the Regional Public Prosecution Office for Oslo and the Ombud for Equality and Anti-Discrimination. Amnesty International also met with a number of other civil society organisations as well as with lawyers and academic/social researchers.

AN EXPANDING LEGAL FRAMEWORK

In recent decades, the Norwegian government has, through legal change, expanded the scope for police intervention in, and control of, the commercial sex market. The breadth of the law on “promotion” of commercial sex has been expanded, meaning that it now criminalizes a wide range of activities associated with organizing sex work, such as renting premises, or working with others. At national level, new initiatives promoted by the Norwegian government to address human trafficking have focused on the reduction/eradication of sex work as the principal means by which human trafficking in the sex sector can be prevented. This is despite concerns expressed by a number of UN agencies and anti-trafficking groups, that conflating adult consensual sex work with human trafficking does little to reduce trafficking and leads to human rights violations.

In 2009, Norway became the third country in the Nordic region to make buying sex a criminal offence – a measure which, combined with the removal of laws that criminalize the direct act of selling sex, is commonly referred to as the “Nordic Model”. This move had been consistently rejected over the previous two decades. However, concerns about changes in the commercial sex market, in particular the arrival of an increasing number of Nigerian migrant women selling sex on the street in Oslo from 2003 onwards, exacerbated fears about unwanted migration, organized crime and human trafficking and helped galvanize support for the new law.

SEX WORKERS FACE INCREASING PENALIZATION AND POLICE CONTROL

The claims that individual sex workers are not criminalized or penalized under the “Nordic Model” in Norway and that the level of harm and stigma that sex workers experience is reduced, are not being realized on the ground. Amnesty International has found evidence that many sex workers remain subject to a high level of policing and are being targeted and penalized by police in multiple, intersecting ways. One social service provider told Amnesty International that:

“No other group in society has this much police attention and has to live with it – even though they are not doing anything illegal. This attention isn’t warranted even by the offence the clients are charged with, let alone the fact the sex workers are not breaking the law.”

Oslo police have over the last decade adopted a “preventative policing” approach to sex work which involves the enforcement of lower level offences as “stress methods” to disrupt, destabilize and increase the pressure on those operating in the sex sector. One academic researcher describes how police sources “in Oslo often use terms like they are going to ‘crush’ or ‘choke’ the [prostitution] market, and unsettle, pressure and stress the people in the market”. One example of this approach is “Operation Homeless”: an initiative that saw increased enforcement of the law on “promotion” of sex work – which makes it an offence to “let premises ... for prostitution”. “Operation Homeless” ran for four years between 2007 and 2011 and initiated the systematic and rapid eviction of many sex workers from their places of work and/or homes. (See Section 3.3 below). Whilst “Operation Homeless” was wound down in 2011, Amnesty International interviewed women, like Mercy, who had experienced eviction more recently.

Amnesty International has also found that many sex workers remain subject to a high level of surveillance by police as a means to enforce both the “promotion” law – leading to subsequent raids and evictions – and to identify and “stake out” sex workers as a means to identify buyers of sex in order to fine them. This places an unreasonable burden on sex workers and leads to subsequent raids, evictions and other forms of penalization. A lawyer interviewed by Amnesty International expressed concern that:

“The police use all of their efforts to take down the women as it’s the easiest way to get rid of the problem.”

The evidence gathered by Amnesty International also indicates that street-based sex workers are regularly subjected to police stops, questioning and identity checks and are often penalized as a result of these stops. Such penalties include being detained and/or deported, being subsequently evicted from their apartment, being fined for failing to give their address to the police or given exclusion notices requiring that they leave the area immediately or face sanctions. Wendy, a young woman of African origin told researchers how she had been stopped by plain clothed officers:

“I was just walking down the street. I wasn’t working. I was chatting to my friends. I thought they were bad guys and I was scared. The police asked to see my papers and I showed them. They asked my friends questions – did they have condoms, why did they have them? They told us to go away and that they better not see us on the street – we better not come back for 24 hours or they would take us to the station.”

Amnesty International heard testimony from service providers and individual sex workers that women who sell sex had been questioned by police for carrying condoms or felt apprehensive about carrying condoms in case it led to police action against them. A representative of Oslo police district confirmed to Amnesty that the existence of condoms in indoor premises would be considered contributory evidence that the sale of sex was occurring there. This approach can act as a de facto penalty on the possession of condoms by sex workers, creating a barrier to the realization of their right to sexual and reproductive health.

VIOLENCE AGAINST SEX WORKERS

As is the case in many countries, sex workers are at high risk of violence and abuse in Norway. The violence they encounter comes at the hands of a range of perpetrators including clients, members of the general public, third parties involved in sex work and organized gangs who prey on them, capitalizing on their isolation and marginalized status. However, rather than being a group with which police prioritize building relationships with to minimize marginalization and offer protection; many sex workers, depending on their circumstances, instead have to risk eviction, police surveillance, loss of livelihood and/or deportation if they engage with police.

It is not surprising then that many of the women interviewed by Amnesty International reported being extremely reluctant to report crimes to police. Nearly all of the women Amnesty International interviewed said that they would only consider engaging with police as a last resort- often only in extreme circumstances where there was an immediate threat to their life. A 2012 study by the largest provider of services to sex workers in Norway found that only 16% of the 123 women they surveyed reported receiving help from the police after a violent incident. Maria, an indoor sex worker, told Amnesty International:

“If a customer is bad you need to manage it yourself to the end. You only call the police if you think you’re going to die. If you call the police – you risk losing everything.”

SAFETY COMPROMISED

Actions that sex workers themselves take to increase their safety are also being compromised. The sex workers that Amnesty International interviewed outlined varying degrees and forms of risk mitigation in their work. For example, Celin, a Norwegian indoor sex worker, told Amnesty International:

“I do different things to stay safe. I never go to private homes – and definitely never the first time you meet a customer. I don’t know who’s going to meet me there. Your own apartment and hotels are much safer than a customer’s apartment. Also no one can call me without a number coming up. I want customers’ numbers so they can be traceable if I ever need to go to police.”

Women interviewed by Amnesty who worked on the street described undertaking their own assessments when first engaging with buyers - principally through short conversations that allowed them to assess the buyers’ motivations. Many street-based sex workers also identified going to a buyer’s home as carrying a significant risk and as something they wanted to avoid. However, most of the women interviewed reported

being asked to visit buyers' homes in order to protect them from detection by police. Street-based sex workers spoke more frequently of visiting buyers' homes. In the testimonies that Amnesty International collected this was strongly associated with violent incidents against street-based sex workers. None of the street-based workers Amnesty spoke with owned their own properties and were most vulnerable to eviction if the police identified that they took buyers to their own homes. Tina, a Nigerian street-based sex worker, told Amnesty:

“Some customers can hurt you at their apartments. They can hurt you because they know we are too scared to go to the police. We have to obey their rules because we are in their house. We can't bring them to ours.”

A number of the social service providers that Amnesty International spoke with raised concerns that the purchasing ban had created a “buyer's market” which compromises sex workers' safety. A representative of Oslo Police told Amnesty International that he believed there had been a reduction in buyers who were most likely to respect the agreement with the seller:

“Many of the good clients – those who respect the law, the younger generation – are no longer out there. But bad clients are still there.”

The evaluation of the ban on buying sex, conducted by Vista Analysis, a social science consultancy, on behalf of the Norwegian government, acknowledges that:

“Women in the street market report to have a weaker bargaining position and more safety concerns now than before the law was introduced. At the indoors market, prostitutes express concerns for ‘out calls’. They prefer to have customers visiting them at their own apartment or own hotel room.”

Social service providers and police informed Amnesty International that the “promotion” law is being interpreted as applying to the use of hotel rooms- meaning that hotels can be held liable for “promotion” if sex work occurs in their premises. Almost all of the migrant sex workers interviewed by Amnesty International reported being profiled by and/or excluded from hotels.

Nearly all of the sex workers Amnesty spoke to, regardless of the location they sold sex from, identified being able to work with others as a means to increase safety. However, the definition of “promotion” under the law is broad enough to criminalize sex workers working together or with any other person, such as a cleaner, receptionist or security guard.

The aim of the “Nordic Model”: that criminal blame be shifted from seller to buyer, is not being realized for many people who sell sex in Norway, particularly the most marginalized. In terms of seriousness, in many cases, the threat and impact of forced eviction, deportation and loss of livelihood on people who sell sex far exceeds the implications of a 15,000 and 25,000 kroner (approx. US\$1,700–2,850) fine for buyers. The criminalization of sex work in Norway and the reluctance it creates among many sex workers in reporting crime to police is also creating a situation whereby perpetrators of violence against sex workers, including abusive clients, enjoy relative impunity for serious criminal offences.

Despite recognizing that the current legal approach in Norway has led to reduced negotiation power for people selling sex on the streets and that reliance on abusive buyers has increased, Vista Analysis concluded that the increasing pressure in the sex sector was:

“...in line with the intentions of the law and... thus not considered as [an] unintended side effect...”

Similarly, an Expert Advisor to the Ministry of Justice and Public Security told Amnesty International that:

“It comes back to the question of ‘is it a problem that people in prostitution are in trouble’. No one has said at a political level that we want prostitutes to have a good time while we also try to stamp out prostitution.”

A CULTURE OF STIGMA AND DISCRIMINATION

Social service providers and some sex workers interviewed by Amnesty International expressed concern that attitudes towards people who sell sex have hardened in recent years and cited media reports, research and the experiences of sex workers as evidence that negative attitudes towards sex workers have become more common. Indoor sex worker Ellie described to Amnesty International the change she felt had occurred:

“When the government made prostitution illegal, it made people see us as illegal. People started looking at us with different eyes than before”.

A 2011 study which explored the effect that the introduction of the law against buying sex has had on public attitudes in Norway found that, whilst there was evidence of increasing support for the criminalization of buying sex in some areas, at the same time “Norwegians became more likely to think it should be illegal to sell sex than they would have been in the absence of legal change.” The authors recognized that this change in attitudes was the “opposite of what was intended by legislators.”

Sex workers that Amnesty International interviewed frequently spoke of negative experiences they had had with members of the public. The discrimination that women described, especially in the case of Nigerian migrant sex workers, was often interwoven with racism and anti-migrant sentiment. Mary told Amnesty International:

“It’s mostly women [but] sometimes men who insult us. It’s happened lots of times. [They say things like] ‘You prostitute go back to your own country’. ‘Fuck off out of my sight’”.

INCREASING EXPOSURE TO EXPLOITATION

Seven migrant women who sold sex told Amnesty International how they had nowhere to go following their eviction and had to rely on friends, associates, strangers, homeless shelters or had slept in public spaces until they found somewhere else to stay. Amnesty International also found evidence indicating that the criminalized nature of sex work leaves some sex workers vulnerable to potential exploitation by landlords who offer not to report them to police in exchange for higher rent, among other things, or by associates who exploited their homeless situation following their eviction. A 2012 report on the experiences of women involved in prostitution in Norway identified how lack of stability in housing has been found to be a crucial determinant in terms of sex workers’ exposure to exploitation:

“Housing has been a key factor in the development of exploitation – we saw a number of Eastern European women when they first came here shortly after the millennium that were dependent on others just to obtain housing, but also help with advertising and other aspects of prostitution. As they got their own network of contacts and managed to arrange this themselves, several of them became independent actors.”

AN INEFFECTIVE TRAFFICKING RESPONSE

Amnesty International met with three women who were survivors of trafficking into the sex sector in Norway. They described varying experiences involving coercion, exploitation and, in some cases, extreme violence. Amnesty International also met with an organization that provides support services to survivors of trafficking.

Human trafficking amounts to a grave human rights abuse. Under international law, Norway has a range of obligations to prevent trafficking, protect victims of trafficking, and ensure effective investigation and prosecution of trafficking crimes. In order to properly fulfil its obligations under international law, Norway’s anti-trafficking approach must be realized in a way that does not violate human rights.

The scale and forms of punitive intervention in the commercial sex market that the Norwegian government and legal framework now support are compromising the safety of many people who sell sex and are directly contributing to violations of their human rights. At the same time, the evidence relied upon by the Norwegian authorities to justify punitive crackdowns as effective anti-trafficking efforts is fundamentally weak and undermined by alternative evidence demonstrating that victims of trafficking are often negatively impacted by police crackdowns on the sex work market.

Despite being promoted as anti-trafficking efforts, it is unclear to what extent initiatives like “Operation Homeless” have contributed to identifying victims and/or perpetrators of trafficking. Out of 280 reported cases of trafficking into the sex sector in Norway between 2006 and 2014, only 32 have resulted in the successful conviction of perpetrators. In Oslo, the annual rate of conviction has ranged between zero (in 2010, 2012 and 2014) and three (in 2011).

The enforcement of the legal framework and “preventative policing” approaches to sex work are increasing the vulnerability of people who sell sex in Norway, placing them at increased risk of exploitation. The strategic deportation of many migrant women who sell sex, some of whom may be victims of trafficking, also leads to failures in the detection of trafficking and identification of victims and leaves individuals at risk of re-trafficking. It also means that perpetrators in these cases are not brought to justice. The crude measurement of success that Norway is applying to its anti-trafficking work – namely, an overall reduction in the commercial sex market – means that Norway can in effect claim success for deporting trafficking victims to

other countries. A representative of Oslo police district acknowledged that: “We deport trafficking victims. Many of them don’t know that they are victims, but they are according to the law.”

Furthermore, the overall conclusion, that levels of sex work, and by association trafficking, in Norway have reduced substantially as a result of the adoption of the so called “Nordic Model”, has been systematically questioned by academics working in the field who point to “too many uncertainties” in the data used to claim success.

The women that Amnesty International interviewed described varying reasons why they sold sex. For many, selling sex was a means to address economic hardships that they and/or their families were subject to. Social exclusion, marginalization and poverty can be a major influence on people’s entry into sex work. States have obligations to tackle this social and economic injustice by respecting and protecting the economic, social and cultural rights of all people. To guarantee that people do not have to rely on selling sex to meet their or their families’ immediate needs, states must take action to ensure that people can enjoy their human rights to an adequate standard of living, to education, to health, and to freedom from discrimination among other rights. States must also ensure that people can participate freely in society without undue interference or repression by the state.

Rather than prioritizing the realization of the human rights of people who sell sex as the central aim of policy making in this area, the Norwegian government has instead adopted a criminalization approach. At its essence this approach supports reduction/eradication of the commercial sex market over all other aims and as such, the impact on the human rights of people who sell sex is often overlooked or seen as less important than the aim of reduction/eradication.

Amnesty International is therefore calling on the Norwegian authorities to change its approach and instead place the protection of the human rights of all people who sell sex at the centre of its response to commercial sex. Amnesty International is calling on the Norwegian government to undertake a programme of legal reform that decriminalizes adult consensual sex work, and ensures legal protections from exploitation for people who sell sex that comply with international human rights standards. Amnesty recommends that the Norwegian government develops and issues a White Paper which makes recommendations on the establishment of a legislative, policy and regulatory framework that realizes the human rights of people who sell sex in Norway, as well as, funding a long-term research project that provides research-based knowledge about the living conditions of sex workers in Norway.

Amnesty International also recommends that the forthcoming national plan of action on trafficking should confirm the distinction between consensual adult sex work and human trafficking and ensure that anti-trafficking measures do not adversely affect the human rights and dignity of any person, in particular those who have been trafficked, people who sell sex, migrants, refugees and asylum-seekers. Amnesty is also calling for an immediate cessation of the use of “stress method” policing practices against people who sell sex in Norway.

Additional recommendations can found be at the end of the full version of this report.

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CRIMINALIZATION OF SEX WORK IN NORWAY EXECUTIVE SUMMARY

In 2009, Norway became the third country in the Nordic region to criminalize the purchase of sex. While the direct selling of sex is not illegal, the penal code also outlaws “promotion” of sex work. This includes a wide range of activities associated with organizing sex work, such as renting secure premises or working with others for safety.

Adopting a “preventative policing” approach, the police have sought to “crush” the commercial sex market by enforcing lower level offences to disrupt those operating within it. They have facilitated the systematic and rapid eviction of many sex workers from their workplace and/or homes. Sex workers report having to take greater risks to protect clients from police detection, such as visiting clients’ homes, or having less time and opportunity to assess the risks of taking on potentially abusive customers. Since reporting abuses and acts of violence makes sex workers vulnerable to possible eviction and, for some, deportation, such acts are often left unreported. Sex work remains highly stigmatized in Norway, contributing to sex workers being discriminated against, marginalized and often exploited.

This report provides recommendations for the current legislation to be amended and measures to be adopted towards protecting the human rights of all sex workers in Norway.

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