



Human Rights Situation of Women Sex Workers in Argentina

July 2018

**Situational report presented to the UN
Committee on Economic, Social and Cultural Rights
64th Session**

September 24 – October 12, 2018

Report presented by:

- **RedTraSex – Red de Mujeres Trabajadoras Sexuales de Latinoamérica y el Caribe**
- **Synergia – Initiatives for human rights**
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The Red de Trabajadoras Sexuales de Latinoamérica y el Caribe (Latin American and Caribbean Network of Sex Workers, RedTraSex), together with Akahatá – Equipo de Trabajo en Sexualidades y Género (Working team on sexualities and genders) and Synergia – Initiatives for human rights, are honored to bring the following report and list of issues¹ to the Committee on Economic, Social and Cultural Rights with the aim of assisting it in reviewing the implementation by Argentina of the International Covenant on Economic, Social and Cultural Rights.

List of issues: sex work – violence – ill treatment – precarious work conditions – discrimination – health – social security

Introduction

1. The ways and conditions under which sex work is performed are directly determined by the legal and political context of each country. Differences among countries in the region notwithstanding, in all of them there are rules and legal codes punishing activities related to sex work (from now on, SW). This creates a framework that favors police repression, institutional violence and precarious work conditions and exploitation and it also poses obstacles to the access to basic health services, including HIV/AIDS care and treatment. The result of all this is SW being clandestine, which in turn increases stigma and vulnerability for women sex workers (from now on, WS).
2. The state of vulnerability when exercising this unregulated job, leaves WSW marginalized, forcing them to accept unsafe and even violent working conditions. Even when SW is not directly criminalized under the law, SW is a clandestine activity in most countries in the region.
3. In 1997, women sex workers from the region gathered in Costa Rica and formed RedTraSex. There we met each other and discovered the shared realities we lived in in spite of being from different countries –we had the same needs, suffered the same injustices and pursued the same goals. Nineteen years later, RedTraSex is formed by national women sex workers' organizations from fourteen countries from all Latin America and the Caribbean². We seek recognition and respect for our human rights in the whole region. We advocate for our right to work and for other basic rights: equal treatment between the genders, non-discrimination, freedom and full respect of sexual and reproductive rights.

¹ This report was produced with information gathered by AMMAR – Asociación de Mujeres Meretrices de Argentina (Women Prostitutes Association of Argentina), which advocates for women sex workers in this country.

² RedTraSex is formed by the following organizations: Asociación de Mujeres Meretrices de Argentina (AMMAR, Argentina), Tikkum Olam (Belice), Organización Nacional de Activistas por la Emancipación de la Mujer (ONAEM, Bolivia), Fundación Margen de Apoyo y Promoción de la Mujer (Chile), Asociación de Mujeres Buscando Libertad (ASMUBULI, Colombia), Asociación de Trabajadoras Sexuales La Sala (Costa Rica), Movimiento Orquídeas del Mar (El Salvador), Organización Mujeres en Superación (OMES, Guatemala), Red Nacional de trabajadoras Sexuales de Nicaragua, Red Nacional de Trabajadoras Sexuales de Honduras, Mujeres con Dignidad y Derechos (Panamá), Unidas en la Esperanza (UNES, Paraguay), Red Nacional de Trabajadoras Sexuales de Perú and Movimiento de Mujeres Unidas (MODEMU, República Dominicana).

Right to work under just conditions (Articles 6 and 7)

4. Even when done on one's own and in an autonomous way, sex work in Argentina is affected by some regulations.
5. The Law on Traffic was reformed in 2012, and as a consequence much of the existing legislation was also modified³, increasing and widening the criminalization of promotion, facilitation and exploitation of the prostitution of third parties. It must be noted that this changes did not take into account the presence or absence of consent from those affected and erased the type of "means to commit", therefore blurring the distinction between forced prostitution and autonomous sex work.
6. From 2009 on, several provinces –such as Córdoba, Tucumán, Río Negro, San Luis, Entre Ríos, San Juan and Tierra del Fuego) passed regulations prohibiting the operation of whisky bars and cabarets. New regulations did not only make their licenses to expire but they also prohibited or restricted licenses to *"venues open to the public where acts of prostitution or of sex offer, of any kind, are carried out, allowed, promoted, managed, organized or facilitated in any other way"*.
7. Eradication policies against sex advertising had emerged during the last past years, both in the mass media as well as in the street, which directly affects the possibilities to do sex work.
8. Presidential decree 936/2011 (popularly known as "prohibition of category 59") created an office for monitoring the advertising of commercial sex –both offer and demand–, requiring among other measures the eradication from widely distributed newspapers of ads promoting sex offers.
9. In Buenos Aires city, Law 4.486 (2012) prohibits flyers that in an explicit or implicit manner offer sex services. Said law mainly affects those doing sex work in closed spaces.
10. Sex workers who offer their services in the street are affected by contraventions codes or minor offenses codes that criminalize "the offer or the demand of sex services in the street", "outrageous prostitution" or "scandal". When sex work is defined in such ways, it can be ground for fines or arrest.
11. While pretending to defend some public moral, contraventions rules impede the free exercise of the right to work. Many times, they are a facilitated way for security forces to arbitrary invade sex workers' private lives, including violating private homes.
12. The National Plan against Discrimination –approved through decree 1086/05– recommends all provincial and city contraventions or minor offenses codes with open or poorly defined contravention types (for example, prostitution) to be repealed, but that is still to be implemented.

³ Some crime types in the National Penal Code were modified, and now promotion or facilitation of prostitution, with or without consent, is criminalized. In that regard, please see AMMAR's report about policies against trafficking and the violation of women sex workers' rights. <http://www.ammar.org.ar/IMG/pdf/informe-ammar.pdf>

13. The most frequent institutional violence situations reported by WSW are perpetrated by security forces, particularly the police –because it carries out street control and executes search warrants–, the psychologists who are part of the rescue teams in alleged human trafficking cases and, to a lesser extent, judicial agents.
14. According to what WSW tell⁴, during searches in places suspected of human trafficking, the professional team of the rescue office –who are supposed to be there to be the first ones to get in touch with the victims, providing support and help through personal and confidential interviews– are quite inquisitorial rather than supportive, especially women psychologists.
15. Searches in the private homes of autonomous sex workers who are willingly into this activity are too frequent in several provinces and in Buenos Aires city⁵.
16. Many times, security forces and other control entities belonging to the local Executive Power violently get into the private homes of sex workers and arrest them invoking contraventions rules. Other times, they forcedly entry without a search warrant and force sex workers to enroll in rescue programs, ignoring their claims to be willingly doing sex work and when sex workers refuse to enroll in such programs, they are mistreated⁶.

Right to social security (Article 9)

17. Autonomous sex work is not regulated as a job, and therefore sex workers do not have access to social security.

Right to family life (Article 10)

18. WSW are discriminated against due to their job in sex work, which operates as an aggravating and discrediting condition when they sue for alimony or for custody of their children. They are considered bad mothers until they prove otherwise, based on stigma and moral judgments that consider them guilty even of the very abuses they often suffer.
19. One paradigmatic case is that of a woman who was sentenced by a judge of Cañuelas, a town in Buenos Aires province, to lose custody of her daughter⁷ because she was a sex worker. The decision was appealed and the case was taken before the Council of the Judicature of the province, but the girl has not been restored back to her mother yet.

Right to health (Article 12)

⁴ Appendix, Narratives of women sex workers in their own voices.

⁵ <http://www.ammar.org.ar/AMMAR-diserto-sobre-regulacion-del.html>

⁶ See Appendix and https://ammar.org.ar/IMG/article_PDF/Violencia-Institucional-hacia_a589.pdf

⁷ <http://ammar.org.ar/Trabajadora-sexual-lucha-por-605.html>

20. Social stigma and discrimination against sex workers foster hostility that crystalizes as social and institutional violence. Such violence is also found in the health system, with health professionals mistreating patients seeking care and posing obstacles to access the system, negatively impacting on the chance to get comprehensive health care.
21. Civil servants involved in health public policies refuse to dialogue with sex workers' organizations. They are particularly reluctant to allow our participation when deciding public policies that affect us. As a result, the prevalent approach is one related only to the prevention of HIV transmission.
22. Women sex workers are subjected to discriminatory regulations regarding HIV and STI, because controls are applied only to us and not to other actors in the market, such as sex work clients.

RECOMMENDATIONS

Taking into account all the above mentioned, we ask the Committee on Economic, Social and Cultural Rights to issue the following recommendations to the Argentinean State:

23. To clearly distinguish sex work from human trafficking and from sexual exploitation, both when it comes to laws and when it comes to implementing public policies.
24. To put an end to arbitrary arrests of sex workers and to forced entries in their workplaces, which are misleadingly carried out alleging to be fighting against trafficking.
25. To elaborate efficient public policies to guarantee autonomous sex work.
26. To establish and to strengthen follow-up mechanisms for acts of violence perpetrated against sex workers, which prevent them from working under decent and safe conditions.
27. To establish effective mechanisms to protect sex workers from the acts of security forces and public institutions holding discriminating and violent attitudes towards sex workers, preventing them from doing their job.
28. To promote recognition, respect and the guarantee of human rights for sex workers, making possible for them to do their job under regulated, decent and safe conditions.
29. To elaborate efficient public policies that guarantee sex workers can access social security.
30. To promote rules regulating sex work without criminalizing it, and guaranteeing the best conditions for its development in a frame of respect for human rights.
31. To establish effective and discrimination-free health care mechanisms for women sex workers.
32. To develop training programs for judicial agents regarding non-discrimination when deciding in family cases involving women sex workers.

33. To elaborate and implement comprehensive health public policies aimed at satisfying the needs and requirements of women sex workers, in order to guarantee discrimination-free access to the health system for this population.

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APPENDIX

STORIES TOLD BY SEX WORKERS ABOUT THE INSTITUTIONAL MISTREATMENT THEY HAVE SUFFERED

“WSW1: Are the psychologists too bad during the searches? Do they mistreat you?”

WSW 2: It's not that they mistreat you, it's about them not believing you.

WSW 3: They want you to answer same as they have written but if you don't give the answers they're expecting, they turn you up, turn you up, they scorn you...

WSW 4: They catch you by your hand and say to you “Tell me, you can tell me”. And you look at her like “What do you want me to tell you? Let me see.

WSW 1: a very bad way of proceeding.... Psychologists are supposed to treat you well... ..

WSW 5: the psychologist is bound to help you (Conversation among WSW in closed spaces, Argentina)

The fact that professionals who are part of rescue offices do not believe their claims and consider their words untrue is pointed by WSW as something particularly unfair. They also remark the notable police tone or the inquiring attitude adopted by psychologists during the interviews:

“Three psychologists came and interviewed all of us, and the three of them asked us exactly the same thing: why we were doing this work, whether our children knew about it, what did I think my daughters were to think about this, whether someone was managing my money, how much I make, how many days I work, how many hours I work, whether I'm able to go in and out as many times as I want to. The three of them asked us about the same things, and they were looking for someone called Jesica. If they caught us distracted, they asked “And at what time does Jesica come?”. But there was no Jesica. They would go out, then come back and ask “When does she come?”. We looked to each other, and said: “Well, if we already told you there is no woman with the name you're asking for, why do you keep asking so many times?” (WSW, closed space, Argentina).

Recently, a woman sex worker who does her job in an apartment she hires together with other WSW in the very downtown of Buenos Aires city, reported the following: *“During the last three months we were subjected to four searches in our home, which is also our workplace. In each of them we were treated very badly, we were shoved aside, shout at, treated as if were the worst of criminals, without giving explanations, they put the apartment upside down searching for we don't know what. One of the times they came without having a search warrant, so I didn't let them in, but the policeman showed me his gun and told me I couldn't shut the door of the apartment, that I should leave it open and that nobody could go in or out until the warrant arrived. And so we were six hours with the door open until the warrant was brought and then the three more hours that the search took. All searches end with our homes completely upside down, everything in a mess, we noted some money was missing twice and each time they made off with all the condoms we use to work. While they do the search, they keep us pointed with their guns. They have searched our place many times, they already know there is nobody there apart from mi colleague, me and two other fellow women who come and go, all of us adult and autonomous, but in spite of that they keep coming and we have to go through all of this once and again”.*

Moreover, some fellow WSW have described violent searches, during which security forces have “shoved them to the floor, carrying Itakas and machine guns, a horrendous moment”.

“It was 7 o’clock in the afternoon, the front grill was closed and they forced the entry breaking the door with those huge pipes... it was terrible. We had security cameras and watched them getting in (...) those pipes to break down, to destroy the door. They broke the door and on one side we had a grill, they climbed the grill. We were sitting in the kitchen, one of the girls doing the hairdressing of other girl. Pointing their arms, they shout to this girl [she adopts a cry tone]: “What are you holding in your hand?”, the girl answers “I got a hair iron in my hand”. I think that girl will never again iron anybody’s hair. That was how this happened.” (WSW, closed space, Argentina).

During this searches, security forces are allowed to seize money or valuable objects as part of the procedure, which very often are used as proof during the prosecution.

“During the last search, they seized our cell phones. (...) We want to get our cell phones back, they are expensive phones and there is no reason why we should give them to the police. It was paid with my work. Why should I have to lose it? (WSW, closed space, Argentina).

In other cases, security forces commit felonies during this searches, such as private property damage or theft.

“We were not present during the [search], so they destroyed everything. I had left some money apart to pay the rent –they took that money. They searched into everything, broke everything, a disaster, but we were not there. (...) They took even the smallest coin they could find, they broke all the glasses, teared our clothes (...) they left a huge damage. They broke everything (...). I always keep an icon of Saint Expedito, to which I give money, they took away even those coins, all of them.” (WSW, closed space, Argentina).

EXPERIENCES OF WOMEN SEX WORKERS WHO ARE PART OF AMMAR REGARDING THE RIGHT TO HEALTH

AMMAR gathered information about stigma and discrimination suffered by women because of them being sex workers. In Argentina, six out of ten women interviewed had difficulties to get to a hospital or health service because the opening hours overlapped with their work shift (in 63,3% of the cases, while the regional average is 36,5%), and almost half of them (55%) sought for health care far from where they live in order to prevent people in their neighborhoods or homes from learning about them being SW and/or they sought for care far from where they do sex work in order to prevent health caregivers from knowing about their job.

Almost half of them (48,3%) refused to go to a hospital or health service to avoid having to give explanations about their job. When asked about discrimination in health services based on them being sex workers, half of the interviewees (48,5%) said they have never been discriminated against, while 36,4% of them said they sometimes were discriminated for that reason. When asked about discrimination in health services based on other grounds (race, appearance, sexual orientation, HIV status, etc.) only 7,6% of women sex workers interviewed in Argentina said they have been discriminated on those grounds (while the regional average is 19,9%).