



## EXCHANGE OF SEX FOR MONEY OR GOODS

### The Issue

The World Health Organization (WHO) defines commercial sex, otherwise known as sex work or prostitution, as the “exchange of money or goods for sexual services.” Sex work may involve consensual and non-consensual sexual encounters. Buyers and individuals on the receiving end of this exchange of money or goods – or sex workers – may be accompanied by a third party involved in the exchange transaction with a client.<sup>1</sup>

Sex workers are at increased risk for interpersonal violence, sexual assault, and sexually transmitted infections (STIs). Sex workers have a 45 to 75 percent chance of experiencing sexual violence over the course of their careers, and a 32 to 55 percent chance of experiencing sexual violence in any given year.<sup>2</sup> Among men who have sex with men, the rates of HIV prevalence amongst sex workers is more than double the rate of HIV prevalence in non-sex workers.<sup>3</sup>

### Sex Work Decriminalization

Sex workers in the United States are subject to criminal punishment for commercial sex, even if they are coerced into or non-consensually involved in such arrangements. A recent survey of sexual and physical violence against sex workers has shown that the risk of violence is “amplified up to seven times among sex workers with criminalization-related experiences.”<sup>4</sup> Criminalization may feed stigma toward sex workers, and many sex workers may be reluctant to report any form of physical, sexual, or emotional abuse from a client, or buyer, for fear of criminal prosecution. These individuals may often be forced to work in dangerous situations on the street.<sup>5</sup>

The criminalization of sex work has increased risk for sex workers not only by discouraging them from reporting abuse, but also by playing a large role in driving human trafficking and sex trafficking globally. The U.S. State Department estimates that up to 17,500 individuals are trafficked every year in the United States and more than three quarters of a million people worldwide.<sup>6</sup> Criminal penalties associated with sex work may inadvertently make it easier for these individuals to be trafficked by further pushing them “into the shadows.”

Sex work decriminalization would lift any penalties on for any actions taken by sex workers who participate in these arrangements. Decriminalization differs from legalization – legalization determines what constitutes sex work and allows for a system of licensing for sex workers. Decriminalization, by contrast, does not allow for the regulation of sex work; rather it removes the possibility of any punitive action taken against sex workers while maintaining the possibility of criminal punishment for buyers of commercial sex. Decriminalization abolishes prison sentences for violators but may maintain other

<sup>1</sup> Overs C. (2002). “Sex Workers: Part of the Solution.” World Health Organization. Web.

<sup>2</sup> Deering K, Amin A, Shoveller J, Nesbitt A, et al. (2014). “A systematic review of the correlates of violence against sex workers.” *American Journal of Public Health*. Web.

<sup>3</sup> Muraguri N, Tun W, Okal J, Broz D, et al. (2016). “HIV and STI Prevalence and Risk Factors Among Male Sex Workers and Other Men Who Have Sex With Men in Nairobi, Kenya.” *Journal of Acquired Immune Deficiency Syndrome*. Web.

<sup>4</sup> Deering KN, Amin A, Shoveller J, Nesbitt A, et al. (2014). “A Systematic Review of the Correlates of Violence Against Sex Workers.” *American Journal of Public Health*. Web.

<sup>5</sup> Open Societies Foundation. (2020). “Laws and Policies Affecting Sex Work.” Web.

<sup>6</sup> U.S. Department of State. (2004). “Trafficking in Persons Report.” Web.

penalties such as fines, probation, or community service.<sup>7</sup> It may also remove some of the conditions making sex workers vulnerable to [human trafficking](#) – namely their reluctance to report coercive third parties or buyers for fear of arrest.

Research suggests that decriminalization of sex work may lead to a decrease in prevalence of sexual assault and STI transmission. After a judge in Rhode Island unexpectedly decriminalized sex work and before the state moved to re-criminalize the practice, reported rape offenses fell 30 percent and the incidence of female gonorrhea declined by greater than 40 percent.<sup>8</sup> Globally, decriminalization could prevent 33-46 percent of HIV infections over a decade.<sup>9</sup>

### **Federal Action**

Congressional action has largely centered on the regulation of sex trafficking, or the practice of illegal, non-consensual transport of individuals for the purposes of sexual exploitation. The [Allow States and Victims to Fight Online Sex Trafficking Act](#) and the [Stop Enabling Sex Traffickers Act](#) (FOSTA-SESTA), passed in 2017, largely ignored the difference between sex trafficking and sex work and may have inadvertently endangered sex workers by shuttering websites used to screen buyers, forcing more sex workers onto the streets. The [SAFE SEX Workers Study Act](#) (HR 5448) was introduced two years later to analyze the impacts of FOSTA-SESTA on sex workers and undertake the first federal study on the health and safety of this population. It has not been passed by either house of Congress.

### **State Action**

Statutes governing the criminalization of sex work in the United States occur at the state level. Outside of several rural counties in Nevada, commercial sex remains illegal in the United States. Since 2019, five states (HI, MA, ME, NY, VT) and DC, recognizing the punitive effect these policies have on sex workers, have introduced legislation to decriminalize sex work. Vermont's [HB 569](#) would decriminalize sex work in the state, while [HB 568](#) would give immunity to individuals who witnessed a crime while engaged in sex work or sex trafficking to encourage them to report it to authorities. In 2019, Rhode Island introduced a [resolution](#) to establish a legislative commission to study the impacts of revising the state's sex work criminalization laws. Despite these legislative efforts, sex work decriminalization has not been legalized anywhere in the United States.

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<sup>7</sup> Ibid.

<sup>8</sup> Cunningham S, Shah M. (2014). "Indoor Prostitution: Implications for Sexual Violence and Public Health." National Bureau of Economic Research. Web.

<sup>9</sup> Shannon K, Strathdee SA, Goldenberg SM, et al. (2015). "Global epidemiology of HIV among female sex workers: Influence of structural determinants." *Lancet*. Web.