THE CONVENTION TO ELIMINATE ALL FORMS OF DISCRIMINATION AGAINST WOMEN 2017

SUPPLEMENTING AND COMMENTING ON NORWAY'S 9TH PERIODIC REPORT ON THE IMPLEMTATION OF CEDAW (CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN)

A shadow Report by PION

Abbreviations

AI	Amnesty International
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
PION	Prostituertes interesseorganisasjon i Norge
SSPs	Social Service Providers
STI(s)	Sexually Transmitted Infection(s)
SW(s)	Sex Worker(s)

Contents

Abbreviations i
Section 1: Introduction 1
Section 2: Key Concerns and Relevant Articles 2
Key concerns for Sex Workers in Norway: 2
Relevant articles in the CEDAW Convention: 2
Article 5: Sex Role Stereotypes and Prejudice 2
Article 6: Prostitution 2
Article 11 (c and e): Employment 2
Article 12: Health Care 2
Article 15: Law 2
Section 3: PION's Criticisms of the Official 2016 Report 3
Vista Analyse's 2014 Evaluation 3
Article 6: Criminalization and the impact on law enforcement 4
Media Accompaniment in Police Raids and Public Shaming of Sex Workers 4
Undercover Police Work, Illegal Eviction and Discrimination by Hotels 4
Deportation of Migrant Sex Workers 5
Article 5: Stigma, Violence, Health, and the Asymmetry between Racial, Ethnic, and Gender Minorities 6
Article 11: The contradictions and Failings of the system: Taxes, pensions and rights 6
Article 12: Issues on Health, Safety and Prejudice 6
Stay-Away Orders Create Barriers to Accessing Services 6
Use of Condoms as Evidence 7
Changes in Work Patterns Increase Health and Safety Risks 7
Article 15: Reporting to the Police 7
Section 4: Recommendations for Norway 9

Section 1: Introduction

PION (interest organization for sex workers in Norway) is an advocacy group and grass roots activist organization for anyone over 18 years of age engaged in sex work in Norway. PION's main goal is advocating for sex workers' rights, protections and interests.

PION submits this shadow report to CEDAW as a complement to the ninth periodic reports from the Norwegian Government, specifically on the issue of sex work in Norway.
This report is based on in-depth interviews, conducted over a two-month period, with sex workers (SWs), in both the indoor and outdoor arenas in Norway, and with social service providers (SSPs). It draws on PION's historical and organizational knowledge of issues relating to SWs in Norway over a period of almost three decades. As well as academic research, reviews and evaluations from other organizations, and reports from key service providers working with SWs' health and human rights.

This report is divided into four sections. This section presents the introduction, and outline for the report.
The second section looks at the key concerns for SWs in Norway and the relevant articles in the CEDAW Convention.
Section 3 explores PION's criticisms to Norway's 2016 Report to CEDAW, in relation to the situation on the ground for SWs in Norway.
The final section presents a selection of recommendations to better represent SWs' rights and protection.

Section 2: Key Concerns and Relevant Articles

Key concerns for Sex Workers in Norway:

- SWs are without protection of human- and legal rights such as the right to personal protection and privacy.
- SWs are denied the right to safe working conditions.
- SWs are required to pay tax and VAT, but are not granted the associated rights to social security.
- Criminalization has reinforced societal stigma towards SWs, and SWs are facing punitive attitudes among the public, as well as increased violence from clients.
- SWs are subjected to high levels of policing, and are targeted and penalized by the police in multiple intersecting ways.
- Police seize condoms as evidence of sex purchases and sales, affecting SWs' ability to practice safe sex.
- Criminalization is a proven hindrance to effective HIV and sexually transmitted infection (STI) prevention, and is contributing to the prevalence of HIV and STIs among SWs in Norway.
- SWs' hesitation to report crimes committed against them, to keep themselves below the "police radar", is exploited by criminals and clients.

Relevant articles in the CEDAW Convention:

Article 5: Sex Role Stereotypes and Prejudice

Criminalization of sex work upholds and reinforces stereotypes about SWs as passive victims without agency, and/or criminals.

Article 6: Prostitution

The conflation of sex work and trafficking in the political approach to sex work results in the state failing to protect both SWs and trafficking victims from exploitation.

Article 11 (c and e): Employment

The ban on purchasing sex (§316) denies SWs the free choice of profession according to Article 11 (c). The aim of the Act is to protect SWs from sex work by reducing demand.

The criminalization of organizing, housing and advertising for sex work (Penal Code § 315) denies SWs safe working conditions and the right to labour protection, such as occupational health and safety or employment standards.

Article 12: Health Care

Seizure of condoms as evidence of sex purchases and sales affects SWs' ability to practice safe sex, and is viewed as one of the biggest barriers to effective HIV prevention. The criminalization of purchasing sex and the promotion/pimping paragraph act as a barrier for the access of women in sex work to full HIV prevention.

Article 15: Law

Criminalization of sex work alienates SWs from the police, and discourages them from accessing the justice system when they are victims of crime. As a result, SWs in a wide variety of circumstances do not benefit from the legal protection of criminal law as do others in Norway.

Section 3: PION's Criticisms of the Official 2016 Report

PION has several concerns with regard to the Norwegian government's official report.

The report misapprehends and under communicates the consequences of criminalization and law enforcement for SWs in Norway. It fails to explain how the law has impacted, and continues to impact, SWs and their rights and protections, which includes, but spans beyond, physical and sexual violence.

Though there is a lack of empirical data on the economic conditions for SWs, there seems to be differences between certain groups.

Some report fewer clients, lower prices, and that more clients argue about the price of sexual services and the use of condoms. This is a not only a health hazard due to increasing potential for sexual and physical violence, but also due to increasing likelihood of STIs. This forces an already marginalized group into harsher economic situations, working for less and accepting higher risk situations to make money. However, there is a minority reporting an increase in income after the law was introduced.

Even after the ban was enacted, Norway is still a popular destination for SWs from other countries in Europe, and the market is still highly transnational and mobile, both across and within borders.

Vista Analyse's 2014 Evaluation

According to the government, the evaluation found no evidence of increased violence against SWs. It is important to note that this evaluation did not have violence against SWs as part of its terms of reference, and therefore didn't adequately explore this.

Despite a growing body of research contradicting it, the evaluation i) dismissed the statements by SWs on violence and harassment as (and they often continue to be) rumours and anecdotes among SWs, and ii) stated that violence towards SWs has not increased.

This contradicts research, which is detailed below[1], as well as statements from SWs regarding the necessity of avoiding reporting violence and crime to the police. The active silencing of SWs' voices, in denying their reports as fact, severely dehumanizes them.

Furthermore, the evaluation did not undertake comprehensive research or a thorough mapping of the demographics of commercial sex in Norway.[2] There is no empirical evidence that

[1] I. Rasmussen et al «Evaluering av forbudet mot kjøp av seksuelle tjenester», Vista Analyse 2014: p: 172, available at https://www.regjeringen.no/contentassets/0823f01fb3d646328f20465a2afa9477/evaluering_sexkjoepsloven_2014.pdf

[2] See May-Len Skilbrei and Anette Brunovski, "Vi vet ikke om loven virker", Aftenposten, 15. august 2014, available at https://www.aftenposten.no/meninger/kronikk/i/Gmax/Vi-vet-ikke-om-loven-virker;
Guri Tyldum "Antagelser om sexkjøpsloven", Aftenposten, 22.august 2014, available at https://www.aftenposten.no/meninger/debatt/i/rLJA0/Antagelser-om-sexkjopsloven;
Nilas Johnsen & Anne Stine Sæther, Mona Byrkjedal "Farligere sexsalg etter fem år med sexkjøpslov" available at: http://www.vg.no/nyheter/innenriks/prostitusjon/farligere-sexsalg-etter-fem-aar-med-sexkjoepslov/a/23226449/ ;
Susann Huschke, Eilís Ward: Stopping the Traffick? The problem of evidence and legislating for the 'Swedish model' in Northern Ireland, available at http://www.antitraffickingreview.org/index.php/atrjournal/article/view/224
Amnesty International "The Human Cost of 'Crushing' the Market. Criminalization of Sex Work in Norway", 2016, available at https://www.amnestyusa.org/reports/the-human-cost-of-crushing-the-market-criminalization-

banning the purchase of sexual services has reduced demand, nor that the enforcement of the Act combined with the laws against pimping and trafficking have made it less attractive for traffickers or pimps.

What we have seen with the enactment of the law in Norway is, for a lack of a better phrase, "prostitution phobia". Norway is not achieving an end to exploitation or trafficking, but creating a pervasive "anti sex work" and higher victim-blaming attitude[3].

Article 6: Criminalization and the impact on law enforcement

The political approach to sex work has changed radically in the last decade; mainly due to the conflation of sex work and human trafficking. Particularly due to the increased enforcement of section 315[4] of the Penal Code, which makes the "promotion" of prostitution illegal, and the introduction of section 316[5] of the Penal Code, which makes the purchase of sex illegal (i.e. the Nordic model which came into force in Norway in 2009).
Section 315 is more often used to evict SWs living together, than on actual traffickers. During 2007-2011 the police enacted "Operasjon Husløs" (Operation Homeless), and actively used section 315 and managed 400 evictions from apartments.[6] The conclusion after this operation is bleak, as stated in the Amnesty International (AI) Report:
"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) "[7]

Media Accompaniment in Police Raids and Public Shaming of Sex Workers

When police carry out raids they do not protect SWs from being exposed in public. On the contrary, the police have allowed media to cover the raids. In November 2016 the police conducted a raid of massage parlours in Bergen run by female migrants from Thailand, with the national television channel TV2 in tow. The women were exposed and easily recognizable to the public.[8]

Undercover Police Work, Illegal Eviction and Discrimination by Hotels

The interpretation and enforcement of the law prohibits SWs from selling sex from apartments they live in, and denies them the right to rent premises to sell from. It holds hotels,

---

of-sex-work-in-norway/

[3] "Mann fikk lavere straff fordi voldtektsofrene var prostituerte" available at http://www.vg.no/nyheter/innenriks/voldtekt/mann-fikk-lavere-straff-fordi-voldtektsofrene-var-prostituerte/a/23946063/ ;
Tore Bruland "Juryen fant falsk politi skyldig i voldtekter av prostituerte – satt til side av fagdommerne" available at http://www.dagsavisen.no/roganytt/juryen-fant-falsk-politi-skyldig-i-voldtekter-av-prostituerte-satt-til-side-av-fagdommerne-1.799344
"Meling mener sex-annonser burde gi lavere erstatning i voldtektssak" available at http://www.vg.no/nyheter/innenriks/voldtekt/meling-mener-sex-annonser-burde-gi-lavere-erstatning-i-voldtektssak/a/23838539/

[4] Hallikvirksomhet og formidling av prostitusjon https://lovdata.no/lov/2005-05-20-28/§315

[5] Kjøp av seksuelle tjenester fra voksne https://lovdata.no/lov/2005-05-20-28/§316

[6] Note that 400 evictions refer to apartments, the affected number of people are significantly higher considering that sex workers often rent apartments together.

[7] AI "The Human Cost of 'Crushing' the Market.", p.11

[8] TV 2 «Politiet advarer kåte julebordsgjester» 29.11.2016, available at http://www.tv2.no/a/8765233/

landlords, and leaseholders liable under section 315 of the Penal Code for allowing sex work to occur on their premises, even if actual pimping is not taking place. Two or more SWs working together, as well as any support staff such as security guards, or receptionists, can be considered guilty of pimping. SWs are targeted by law enforcement, and subjected to high levels of surveillance as a means of enforcing the bans on both the promotion and purchasing of sex. [9]

In effect, SWs are being deliberately targeted and penalised using legislation intended for their protection because of the law's failure to distinguish between third party involvement that is exploitative/abusive/coercive, and third-party involvement that is practical, supportive or for safety purposes. As mentioned, the police managed 400 evictions in four years[10], and it is unclear if this has had any significant impact on traffickers.

The Norwegian Tenancy Act contracts states that three months' notice must be given for eviction, unless otherwise specified. SWs report being thrown out without notice and with loss of prepaid deposits and rent, in breach of contract, which law enforcement ignores. In some cases, they have found themselves evicted on the hour, without the opportunity to gather their belongings. From observations made by AI and Pro-Senteret, this seemed to impact migrant female SWs more than any other category SW.[11]

SWs have reported being denied access to booking hotel rooms across entire cities.

The police keep tabs on movements of known SWs, and use undercover methods such as responding to adverts by SWs to identify locations for selling sex.

The police also alert landlords and hotel management, and threaten them with legal action if they fail to take action against sex work.[12] This affects specifically female migrant SWs more, as was noted in reports by Pro-Senteret in 2015[13] and 2016[14].

Deportation of Migrant Sex Workers

According to both SWs and SSPs, migrant SWs are frequently checked for documents by the police immigration department, and get deported despite not being in breach of the migration act, and being in possession of return tickets to their country of origin. In many cases, they get deported without time to collect belongings, with the additional economic burden of the loss of pre-paid hotel bookings and paying for new tickets home despite already having tickets only days later. Additionally, their identity documents and are phones seized by the police, only to be returned upon arrival in their home countries, and they are often denied legal counsel and often not informed of their legal rights.

[9] See also; U. Bjørndahl "Dangerous Liaisons: A survey on the violence experienced by women working as prostitutes in Oslo, Pro Sentret, 2012", available at http://prosentret.no/en/publikasjoner/pro-sentrets-reports-in-english/ ; AI "The Human Cost of 'Crushing' the Market."

[10] AI "The Human Cost of 'Crushing' the Market."

[11] Ibid; Pro-Senteret: Sarah Sangesland Warpe "Am I not a human being like you? Vold i Oslos gateprostitusjonsmiljø", 2015 available at http://prosentret.no/wp-content/uploads/2015/12/Am-I-not-a-human-being-like-you-Pro-Sentret-2015.pdf

[12] See also; A. Brunovski "Erfaringer i fem prostitusjonstiltak gjennom et halvt år», Fafo-rapport 2013: 29, available at http://www.fafo.no/index.php/nb/zoo-publikasjoner/fafo-rapporter/item/erfaringer-i-fem-prostitusjonstiltak-gjennom-et-halvt-ar; AI "The Human Cost of 'Crushing' the Market."

[13] Pro-Senteret "Am I not a human being like you?" p.42-47

[14] Pro-Senteret Annual report 2016 available at http://prosentret.no/wp-content/uploads/2017/04/A%CC%8Arsrapport-2016-Pro-Sentret.pdf

Article 5: Stigma, Violence, Health, and the Asymmetry between Racial, Ethnic, and Gender Minorities

One of the purposes of the ban is reducing demand by deterrence and behavioural change. However, the government fails to consider that criminalization also triggers stigma and punitive attitudes towards people selling sex. There have been increased reports of random by-passers throwing coins and shouting slurs at SWs as a form of entertainment, or self-amusement as they walk by.[15]

PION is concerned about how criminalization reinforces stigma against an already marginalized group. In general people, as well as the police, perceive SWs as outcasts and delinquents.

"They don't see me. Rather they see us as one group. We are all the same. We are all criminals."[16]

The stigma is intersectional, and related to other characteristics such as skin colour, ethnic groups, and sexual identity. Most of the SWs in the outdoor arena in Oslo, Stavanger and Bergen are migrants staying temporarily in Norway. The threshold for committing crime is lower in the outdoor market, making outdoor SWs more vulnerable and at risk of experiencing crime. However, the feeling of lack of control over their own business was reported by SWs in both the indoor and outdoor markets. Criminalization has created a "buyer's market".

Article 11: The contradictions and Failings of the system: Taxes, pensions and rights

SWs do not get included into any pension plan since they fall outside the system and have no way of paying taxes.
Moreover, they don't have the right to form an official union since sex work isn't considered a profession. This creates the problem of being excluded by the Norwegian labour law and all the rights that come with being covered by it.

Article 12: Issues on Health, Safety and Prejudice

Stay-Away Orders Create Barriers to Accessing Services

Street workers and SSPs nationally report arbitrary expulsion from central areas for 24 hours, on citation of the Police Act section 7[17], with sanctions including fines or imprisonment.[18]
SSPs are concerned about the lack of access to health services for, particularly, migrant SWs who experience violence or rape. Most public health initiatives for SWs are located centrally; with expulsion they can't access necessary health and safety services. In Oslo, these services include, food, HIV testing, free condoms, shelter, and shower facilities, and these services are provided in the city centre.

[15] Pro-Senteret "Am I not a human being like you?"
[16] ibid p.24
[17] Enforcement of public order etc. https://lovdata.no/dokument/NL/lov/1995-08-04-53
[18] Dagbladet «Vi lever i konstant frykt» 08.08.17, available at https://www.dagbladet.no/nyheter/vi-lever-i-konstant-frykt/68558914

Use of Condoms as Evidence

SWs reported that police confiscate unused condoms to use as evidence in court in both Vista Analyse's evaluation[19] and the AI report. International studies state that police confiscation of SWs' condoms is one of the biggest barriers for SWs' access to effective HIV prevention.

SWs are reluctant to carry condoms out of fear of police confiscation. This contributes to reduced bargaining power when meeting clients[20].

In general, criminalization can serve as a barrier to SWs' full access to free condoms; HIV medication and PrEP; and access to testing for STIs[21]. International studies have proven that the criminalization of sex work results in increased risk of HIV infection.[22]

Changes in Work Patterns Increase Health and Safety Risks

During PION's interview sessions with mainly cis-gender- and some transgender women SWs, many outdoor SWs reported that they have changed their methods for working: where formerly, two or more workers would stand together and eg. take photographs of the license plate and/or driver of any cars one or more of them entered, they now feel obligated to stand alone to reduce the risk of detection by police. This significantly increases the risk of becoming a victim of violence, [23] and becoming a victim of violence increases the risk of HIV infection.

Article 15: Reporting to the Police

PION is deeply troubled about the lack of reporting of crimes such as violence, rape, and robbery. During interviews with SWs in Norway, PION learned that many are afraid to report crimes out of fear of being evicted from their homes and from hotels, of losing rent and deposits, of being stigmatized. They are fearful of being targeted by social services including the Norwegian Child Protective Services. Interviewees informed PION that the police, in some cases, have passed on information to the child protective services if the SWs are caring for children, even if there is no suspicion of failure of childcare.

In addition to the clear problems resulting from a lack of access to police and legal protection, a many of the interviewed SWs suggested that while there is no empirical evidence of increased violence against SWs, this may well primarily be due to the under-reporting of crimes to the police.

Several interviewees reported frequent instances of the police failing to respond to calls made by them. One recounted when she called the police after the client had been excessively violent towards her. He had inflicted head wounds so she was bleeding from her scalp. When the police arrived at the scene and saw blood on the client, their response was not to help her,

---

[19] «Evaluering av forbudet mot kjøp av seksuelle tjenester», Vista Analyse 2014

[20] Shannon K, Strathdee SA, Goldenberg SM et al. Global epidemiology of HIV among female sex workers: influence of structural determinants. Lancet 2015; 385: 55 – 71;
Reeves A, Steel S, Stuckler D et al. National sex work policy and HIV prevalence among sex workers: an ecological regression analysis of 27 European countries. Lancet HIV 2017; 4: e134-40.

[21] ibid

[22] ibid, See also: Pro-Senteret «Am I not a human being like you », available at http://prosentret.no/ny-voldsrapport-fra-pro-sentret/ ; U. Bjørndahl "Dangerous Liaisons: A survey on the violence experienced by women working as prostitutes in Oslo; A. Brunovski "Erfaringer i fem prostitusjonstiltak gjennom et halvt år»; AI "The Human Cost of 'Crushing' the Market..."

[23] Skilbrei M. Når sex er arbeid. Pax forlag, 1998

but to ask the client if she had tried to rob him.[24]

SWs expressed a strong sense that the police do not seem concerned with the protection of SWs themselves; rather, they use such reports as a pretext to intimidate and harass them. One SW stated: “If I call the police to get help they are – if they take the trouble to come – often more concerned about the client than me even if I’m the victim of crime. The police see us as criminals”. SWs do not trust the police to come to their aid, and they do not trust them to protect them like they would any other citizen.[25]

“Everybody is scared. We know that if somebody wants to kill us, it’s nobody to call for help.”[26]

[24] Interviews held by PION
[25] Ingri Gudmundsen Bergo ” Prostituerte i Oslo stoler ikke på politiet” på available at: http://www.vg.no/nyheter/innenriks/krim/prostituerte-i-oslo-stoler-ikke-paa-politiet/a/23583878/
[26] Pro-Senteret ”Am I not a human being like you?” p.47

Section 4: Recommendations for Norway

PION's key recommendations are:

- End to the conflation of sex work and migration with human trafficking;
- Ensuring that the human rights and dignity of SWs, in all legislative responses to sex work, are upheld;
- Comprehensive overhaul of existing framework, moving from the Nordic model to a legal framework of decriminalization of both the sale and purchase of sexual services; and reform of Section 315(b) of the Penal Code to distinguish between exploitation and consensual third-party behaviour;
- End to the deportation of migrants not in breach of the Migration Act;
- End to the use of stress methods and harassment of SWs by police, in particular the eviction of SWs from city centres through the arbitrary and selective enforcement of the Public Nuisance law, and confiscation of condoms and their use as evidence in court;
- Implementation of necessary measures to ensure the immediate cessation of police harassment of, and hostility towards, SWs requesting their assistance;
- Appropriate mechanism for anonymous reporting to the police;
- Compulsory sensitivity training for any persons within public institutions dealing with SWs;
- Expansion and strengthening of low-threshold health provisions for migrants and other marginalized SWs subjected to violence and rape.

PION

PROSTITUERTES INTERESSEORGANISASJON I NORGE