

Reference: AMR 51/0263/2019

House Judiciary Committee
Rhode Island State House
82 Smith Street
Providence, RI 02903 USA

29 April 2019

Dear Members of the Rhode Island House Judiciary Committee:

LETTER OF SUPPORT – HB 5354 (ESTABLISHING A SPECIAL LEGISLATIVE COMMISSION TO STUDY THE HEALTH AND SAFETY IMPACT OF REVISING COMMERCIAL SEXUAL ACTIVITY LAWS)

Amnesty International strongly supports House Bill 5354, which would create a special legislative commission to study the health and safety impact of revising commercial sexual activity laws in Rhode Island. As sex workers and others involved in selling sexual services are among some of the most oppressed and marginalized people in the world, it is essential to consider the potential impact of law and policy reform around sex work. To prioritize the health, safety, dignity and human rights of people who engage in sex work, such a study should take a human rights-based approach and actively engage those who are the focus of the study at every stage of the process, including from its conceptualization, development and eventual publication.

For many years, Amnesty International has documented human rights violations against sex workers in countries all over the world, highlighting the fact that sex workers are consistently at heightened risk of abuse. In 2016, the organization published four detailed research reports on the situation for sex workers in Argentina,¹ Hong Kong,² Norway³ and Papua New Guinea.⁴ Across the four locations,⁵ despite strikingly different economic, social and cultural backdrops and different legal frameworks, sex workers told us stories of exploitation, harassment and violence. The organization also conducted a three-year consultation around the human rights of sex workers, which entailed consulting with more than 200 sex workers, sex worker rights groups, groups representing survivors of prostitution, organizations promoting criminalization, feminist and other women's rights representatives, LGBTI activists, anti-trafficking agencies and HIV/AIDS activists, among many others. It was the stories, testimonies and voices of all of these individuals that helped guide Amnesty International in formulating its institutional policy on protecting sex workers from human rights violations.⁶ The [policy](#) outlines a range of steps for states to take that will help ensure better protection for sex workers from the rampant violence and injustice they face worldwide. More recently, in 2019, Amnesty International published a report specifically focusing on gender-based torture against sex workers in the Dominican Republic.⁷

Multiple global studies,⁸ including a body of evidence from the WHO⁹, the Global Commission on HIV and the Law,¹⁰ UNAIDS¹¹ and public health specialists,¹² as well as Amnesty International,¹³ have shown that women engaged in sex work are at high risk of violence from both state agents and private individuals. These entities and experts have recommended decriminalization of all aspects of adult consensual sex work as an essential strategy for reducing human rights violations.

A foremost issue that Amnesty International found when investigating the lived realities of people selling sex under a range of legal and policy frameworks, is that in more restrictive legal frameworks, the individuals often faced grave violence, often at the hands of police and other law enforcement representatives. In some cases, this conduct amounted to torture as defined under international law. Most sex workers that we spoke to did not, or were reluctant to, seek police protection from, or redress for, violence and crime. This reality makes those involved in the sale of sex vulnerable to violence, entrapment, extortion and harassment by state officials. This is the case for both sex workers and human trafficking victims, who are also often investigated and punished under laws that criminalize sex work and anti-trafficking measures. Moreover, violence against sex workers by private individuals, including clients, can be compounded by criminal and other punitive laws and stigma against sex work, which inhibit individuals' ability to seek state protection from violence and/or compel them to operate in covert ways that compromise

their safety. In most countries, including the USA, law enforcement is not adequately focused on the protection of sex workers from violence, but instead on prohibition of sex work through criminal law enforcement. This creates an adversarial relationship between sex workers and law enforcement officials that compromises sex workers' safety and offers impunity to perpetrators of violence against sex workers. The same realities and lack of redress also applies to trafficking victims who are often caught up in criminal law enforcement, despite their status as victims in need of support and assistance.

The public health impact of criminalizing sex work has also been well documented. Laws which preclude individuals' access to needed health services, including those for all dimensions of sexual health, violate human rights and are commonly associated with preventable ill-health.¹⁴ The UN Committee on Economic, Social and Cultural Rights has confirmed that criminalizing consensual adult sexual activities violates states' obligation to respect the right to sexual and reproductive health as it amounts to a legal barrier that impedes access to sexual and reproductive health services.¹⁵ Public health research has also found that criminal laws undermine sex workers' ability to collaborate to identify potentially violent clients and their capacity to demand condom use with clients as a means to prevent unintended pregnancy, HIV and sexually transmitted infections.¹⁶ The need for furtive, rushed transactions is repeatedly identified in public health literature as a principal factor in sex workers' reduced ability to negotiate safer sex.¹⁷ Criminalization also diminishes sex workers' ability to access health services.¹⁸

Punitive legal frameworks around sex work also have particularly dire consequences for HIV prevention because it prevents sex workers – and sometimes their clients – from taking the necessary precautions to lower the risk of transmission. For example, sex workers that fear detection by the police may be compelled to engage in rushed transactions with clients, to the detriment of their health and safety.¹⁹ Similarly, law enforcement practices that include confiscating condoms or using condoms as evidence of sex work reduce condom use among sex workers and their clients.²⁰ Criminalization of sex work also deters sex workers from testing or seeking treatment for fear of arrest.²¹ An examination of HIV among female sex workers published in July 2014 in the *Lancet*, concluded that of all potential interventions identified, "[d]ecriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections in the next decade."²²

While punitive legal frameworks around sex work are often well-intentioned, particularly when aimed at reducing and eradicating human trafficking and sexual exploitation of women and children, overbroad legal and policy approaches are often ineffective and can lead to human rights violations and abuses. A critical first step to ensuring laws and policies around sex work are effective and strategic, is undertaking a study commission as proposed in House Bill 5354. Along these lines, Amnesty International strongly supports HB 5354, which would form a commission that would include legislators, advocates, and many other critical agencies/governmental representatives to review and analyze your state's laws.

Thank you for your time and consideration of this matter.

Sincerely,



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¹ Amnesty International, "What I'm doing is not a crime": The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina', Index: AMR 13/4042/2016, www.amnesty.org/en/documents/amr13/4042/2016/en/

² Amnesty International, 'Harmfully Isolated: Criminalizing Sex Work in Hong Kong, Index: ASA 17/4032/2016), www.amnesty.org/en/documents/asa17/4032/2016/en/

³ Amnesty International, 'The Human Cost of "Crushing" the Market: Criminalization of Sex Work in Norway', Index: EUR 36/4034/2016, <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>

⁴ Amnesty International, 'Outlawed and Abused: Criminalization of Sex Work in Papua New Guinea', Index: ASA 34/4030/2016, www.amnesty.org/en/documents/asa34/4030/2016/en/

⁵ Amnesty International, 'Sex Workers at Risk: A Research Summary on Human Rights Abuses against Sex Workers', Index number: POL 40/4061/2016, www.amnesty.org/en/documents/pol40/4061/2016/en/

⁶ Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers, Index number: POL 30/4062/2016, <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

⁷ Amnesty International, "If they can have her, why can't we?": Gender-based Torture and Other Ill-treatment of Women Engaged in Sex Work in the Dominican Republic', Index: AMR 27/0030/2019, <https://www.amnesty.org/en/documents/amr27/0030/2019/en/>

⁸ One paper which analyzed correlates of violence against sex workers based on findings from 41 peer-reviewed articles covering various geographic locations found consistent evidence of high levels of violence against sex workers globally. It also found a clear link between policing practices (e.g. arrests, coercion, _____

and bribes) and elevated rates of physical and sexual violence against sex workers. It also found that street-based sex workers are at highest risk for violence, and that gender or sexual identity is a key factor influencing violence against sex workers. See K. Deering, A. Amin, J. Shoveller, A. Nesbitt, C. Garcia-Moreno, P. Duff, E. Argento, and K. Shannon, 'A Systematic Review of the Correlates of Violence Against Sex Workers', *AMERICAN JOURNAL OF PUBLIC HEALTH*, May 2014, 50. Additionally, a meta-analysis conducted by professors at the Johns Hopkins Bloomberg School of Public Health and other institutions reviewing over 130 studies conducted over nearly 30 years found the following: Repressive policing practices of sex workers were associated with increased risks of sexual/physical sexual violence from clients or other partners; sex workers who had been exposed to repressive policing practices were on average at increased risk of infection with HIV/STI compared to those who had not; repressive policing was also associated with increased risk of condomless sex; and repressive policing of sex workers, their clients, and/or sex work venues disrupted sex workers' work environments, support networks, safety and risk reduction strategies, and access to health services and justice. See L. Platt, P. Grenfell, R. Meiksin, J. Elms, S.G. Sherman, T. Sanders, P. Mwangi, and A. Crago, 'Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies', 15 *PLoS MED* 12, 2018, doi.org/10.1371/journal.pmed.1002680

⁹ See www.who.int/hiv/topics/sex_work/en/

¹⁰ Global Commission on HIV and the Law, 'Risks, Rights & Health', 2012, www.hivlawcommission.org/report/

¹¹ UNAIDS, 'Guidance Note on HIV and Sex Work', www.unaids.org/sites/default/files/sub_landing/files/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf (Last updated April 2012); see also Joint United Nations Statement on Ending Discrimination in Healthcare settings, http://www.unaids.org/sites/default/files/media_asset/ending-discrimination-healthcare-settings_en.pdf

¹² *THE LANCET*, 'HIV and sex workers' (series), 23 July 2014, www.thelancet.com/series/HIV-and-sex-workers; L. Platt, P. Grenfell, R. Meiksin, J. Elmes, S.G. Sherman, T. Sanders, et al., 'Associations between Sex Work Laws and Sex Workers' Health: A Systematic Review and Meta-analysis of Quantitative and Qualitative Studies', 15 *PLoS MED*, 2018, doi.org/10.1371/journal.pmed.1002680

¹³ Amnesty International, 'Harmfully Isolated: Criminalizing Sex Work in Hong Kong, Index: ASA 17/4032/2016),

www.amnesty.org/en/documents/asa17/4032/2016/en/; Amnesty International, "'What I'm doing is not a crime": The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina', Index: AMR 13/4042/2016, www.amnesty.org/en/documents/amr13/4042/2016/en/; Amnesty International, 'Outlawed and Abused: Criminalization of Sex Work in Papua New Guinea', Index: ASA 34/4030/2016,

www.amnesty.org/en/documents/asa34/4030/2016/en/; Amnesty International, 'The Human Cost of "Crushing" the Market: Criminalization of Sex Work in Norway', Index: EUR 36/4034/2016, <https://www.amnesty.org/en/documents/eur36/4034/2016/en/>; Amnesty International, "'If they can have her, why can't we?": Gender-based Torture and Other Ill-treatment of Women Engaged in Sex Work in the Dominican Republic', Index: AMR 27/0030/2019, <https://www.amnesty.org/en/documents/amr27/0030/2019/en/>

¹⁴ See CEDAW, General Recommendation 24 (Article 12: Women and Health), UN Doc. A/54/38/Rev.1, 1999; CESCR, General Comment 14 (Right to the Highest Attainable Standard of Health), UN Doc. E/C.12/2000/4, 2000; CRC, General Comment 15 (Rights of the Child to the Highest Attainable Standard of Health), UN Doc. CRC/C/GC/15, 2013

¹⁵ CESCR, General Comment 22 (right to sexual and reproductive health (Article 12)), UN Doc. E/C.12/GC/22, 2016, para. 57

¹⁶ See L. Platt, P. Grenfell, R. Meiksin, J. Elms, S.G. Sherman, T. Sanders, P. Mwangi, A.L. Crago, 'Associations between Sex Work Laws and Sex Workers' Health: A Systematic Review and Meta-analysis of Quantitative and Qualitative Studies', 15 *PLoS MED*, 2018, doi.org/10.1371/journal.pmed.1002680; UNAIDS, 'UNAIDS Guidance Note on HIV and Sex Work' (Annex 2), 8, 2011; see also D. Kulick, 'Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration', *ANTHROPOLOGICAL THEORY*, 199-218, 2003; NSWP, 'Research for Sex Work, No. 12, 2010; K. Blankenship and S. Koester, 'Criminal Law, Policing Policy, and HIV Risk in Female Street Sex Workers and Injection Drug Users', *JOURNAL OF LAW, MEDICINE AND ETHICS*, 550, 2002, (finding that raids, cautions, arrests, and the use of anti-social behaviour orders (ASBOs) against sex workers in the United Kingdom shift sex workers toward unsafe areas and diminish sex workers' ability to choose clients and negotiate condom use)

¹⁷ See K. Shannon, et al, 'Global Epidemiology of HIV among Female Sex Workers: Influence of Structural Determinants,' *THE LANCET*, 10, 2010, dx.doi.org/10.1016/S0140-6736(14)60931-4. ("Kenyan sex workers describe similar experiences to Vancouver—of how criminalization compromises HIV prevention by rushed transactions due to fear of arrest, bribes, extortion, sexual coercion, and the forgoing of condoms, and the deterrence of sex workers from reporting violence to authorities.")

¹⁸ See C.M. Lowndes, et al, 'Injection Drug Use, Commercial Sex Work, and the HIV/STI Epidemic in the Russian Federation', *SEXUALLY TRANSMITTED DISEASES*, 47, 2003; see also UNDP, Global Commission, HIV and the Law 'Risks, Rights & Health, 2012, www.hivlawcommission.org/index.php/report

¹⁹ See K. Blankenship and S. Koester, "Criminal Law, Policing Policy, and HIV Risk in Female street sex workers and injection drug users", *Journal of Law, Medicine and Ethics*, 2002, p. 550; K. Shannon, et al, "Global epidemiology of HIV among Female Sex Workers: Influence of Structural Determinants", *THE LANCET*, 10, 2010, dx.doi.org/10.1016/S0140-6736(14)60931-4

²⁰ See OSF, 'Criminalizing Condoms: How Policing Practices put Sex Workers and HIV Services at Risk in Kenya, Namibia, Russia, South Africa, the United States, and Zimbabwe, 2012

²¹ See UNDP, Global Commission, HIV and the Law 'Risks, Rights & Health, 38, 2012

²² K. Shannon, et al, "Global epidemiology of HIV among female sex workers: influence of structural determinants", *The Lancet*, 2010, p. 1