



BODY POLITICS:

CRIMINALIZATION OF SEXUALITY AND REPRODUCTION

The criminalization of sexuality and reproduction worldwide is a major barrier to human rights and denies millions of people their human dignity

Amnesty International believes that all people should be able to make autonomous decisions about how they experience their sexualities and sexual orientation and express their gender identities. All people should be free to decide whether and when to become pregnant, and with whom, and when or if to marry. Individuals' ability to make autonomous decisions about their bodies, sexualities and reproduction is essential to human dignity.

**A Guide to Amnesty International's Body Politics:
Criminalization of Sexuality and Reproduction Series**

**AMNESTY
INTERNATIONAL** 



States worldwide seek to control and oppress people who challenge social, sexual and gender norms.



States often justify criminalization or punishment based on claims of morality, religion, “protection” of women and children, and tradition.



Individuals’ ability to make decisions about their bodies, sexualities and reproduction enables them to enjoy physical, emotional, mental and social wellbeing and to realize the full range of their human rights.

WHAT IS CRIMINALIZATION OF SEXUALITY AND REPRODUCTION?

The criminalization of sexuality and reproduction is when consensual sexual and reproductive actions and decisions or gender expression, is punished through law, policy and/or in practice.

This can occur through direct regulation, such as criminal bans on abortion and same-sex conduct. Other times, a range of laws and policies relating to public order or “morality” are used to indirectly

police and punish people’s sexual and reproductive actions and decisions or gender expression.

These laws can easily be abused. For example, criminalizing consensual sex outside of marriage (pre-marital sex or so-called adultery) violates human rights and can put women who have been raped at risk of prosecution for sexual activity outside marriage.

WHY IS CRIMINALIZATION OF SEXUALITY AND REPRODUCTION A HUMAN RIGHTS ISSUE?

This type of criminalization is a major barrier for many around the world to claiming their human rights, and it denies millions their human dignity. Governments are using criminal or other punitive laws and policies to control and punish issues that are integral to people’s bodies, lives and identities. This type of punitive state action violates bodily autonomy and impacts a number of human rights, including the rights to life, health, privacy, liberty and security of person, equality and nondiscrimination, freedom from torture and other ill-treatment, and freedom of expression and association, among others. For example, when governments deny access to evidence-based, non-biased information about individuals’ pregnancies they impact their reproductive autonomy and their ability make informed and autonomous decisions about their health and lives. Governments also violate transgender persons’ rights to freedom of expression and to liberty and bodily integrity when they profile, harass and punish them on the presumption that they are sex workers. Moreover, criminalization of consensual sex work between adults violates sex workers’ human rights as it infringes on their bodily autonomy, subjects them to violence, extortion, harassment and discrimination, and impacts their health and well being, among other things.

WHO IS IMPACTED BY CRIMINALIZATION OF SEXUALITY AND REPRODUCTION?

Punitive laws, policies and practices often disproportionately affect people who do not or cannot conform to dominant social and gender norms because of their identities or because of decisions or actions they take in relation to their economic circumstances. People are also disproportionately affected where they face other forms of discrimination, including on the basis of their sex, race, gender identity, sexual orientation, or their immigration, health or disability status.

Most people who face sanctions or imprisonment for sexual and

reproductive “crimes” are, in reality, being punished for actions and decisions related to poverty, social exclusion, identity or their status in society. For example, laws policing pregnant women’s behaviour reflect racial and gender discrimination and particularly impact low-income women and those unable to access healthcare services. Laws punishing sex work often disproportionately impact low-income, street-based sex workers who already face oppression on other fronts and his increases stigma and discrimination against them.

WHAT ARE THE HARMS OF UNJUST CRIMINALIZATION?

Criminalization of sexuality and reproduction can lead to arbitrary detention, unjust punishment, extortion, violence and harassment, as well as reinforcing stigma and discrimination.

Individuals and groups of people can also end up in positions of social and economic marginalization where they are excluded from vital services, such as health, housing and education.



LAWS, POLICIES AND PRACTICES CRIMINALIZING SEXUALITY AND REPRODUCTION



Women's rights activist demonstrate for the decriminalisation of abortion in front of the Supreme Court in San Salvador 15 May 2013. © Giles Clarke

Criminalization of sexuality and reproduction has been documented in varying forms in every region of the world.

THE BODY POLITICS SERIES COVERS

SEVEN KEY ISSUE AREAS:

1. CRIMINALIZING SAME-SEX SEXUAL ACTIVITY

Criminal or other punitive laws that enable stigmatization, policing and punishment of people whose actual or presumed sexual orientation and/or gender identities do not conform to strict social, gender or sexual norms.

2. CRIMINALIZING CONSENSUAL SEX OUTSIDE MARRIAGE

Criminal or other punitive laws are used to disproportionately sanction women for consensual sex and compound the discrimination and violence they face. These laws are often referred to in law as “adultery” or “fornication” laws.

3. CRIMINALIZING HIV NON-DISCLOSURE, EXPOSURE AND TRANSMISSION

Criminal and other punitive laws used to punish people living with HIV for not disclosing their HIV status, allegedly exposing others to the virus, or transmitting HIV, even if there was no intention of or proof of potential or actual harm. These laws are most often based on stigma and stereotypes and impede HIV prevention efforts.

4. CRIMINALIZING CONSENSUAL ADOLESCENT SEXUAL ACTIVITY

Criminal and other punitive laws that often disregard the evolving capacities of adolescents to make decisions about their bodies and sexual and reproductive health, and result in punishing consensual adolescent activity, as opposed to protecting adolescents from harm.

5. CRIMINALIZING SEX WORK

Criminal and other punitive laws that punish the consensual sale and purchase of sexual activity that are most often solely enforced against sex workers. Such laws violate sex workers’ rights to privacy and bodily autonomy, life, health and freedom from discrimination, as well as gravely impede their ability to protect themselves from and report violence that they face. Such punitive approaches impede efforts to identify and assist victims/survivors of human trafficking and others suffering sexual exploitation.

6. CRIMINALIZING ABORTION

Criminal and other punitive laws and policies that restrict or deny access to abortion which often compels women, girls and others who can become pregnant to seek clandestine and/or unsafe abortions or to continue pregnancies that may damage their physical and mental health. Denying pregnant people access to abortion violates their reproductive autonomy, as well as the full range of human rights.

7. CRIMINALIZING PREGNANCY

Criminal and other punitive laws that police and punish pregnant people for their actions and decisions during pregnancy, and in some cases for adverse pregnancy outcomes. These laws violate a range of human rights and disparately impact low-income women, women of color and/or those who are already facing multiple and intersecting forms of discrimination, with little or no access to healthcare services. They also fail to promote maternal health, access to prenatal care or drug treatment, or other social services.

KEY AMNESTY INTERNATIONAL RESOURCES

Through the Body Politics: Criminalization of Sexuality and Reproduction Series, Amnesty International shows that it is time to stand up against unjust criminalization of peoples' bodies, sexualities, reproduction and gender expression. The Body Politics Series is designed to empower activists and individuals to raise awareness and stand up for their rights – let's get started!

The Body Politics Primer

helps to build knowledge of and capacity to challenge unjust criminalization in local, national, regional and international contexts:

- Overview of Sexual and Reproductive Rights
- Limits on and Legitimate and Illegitimate Uses of Criminal Law
- Using Human Rights to Challenge Unjust Criminalization
- Human Rights Violations caused by Criminalization

www.amnesty.org/en/documents/pol40/7763/2018/en/

The Body Politics Toolkit

promotes strategic campaigning on these issues:

- Campaigning Basics
- Working with Stakeholders
- Power Analysis
- Cross-issue Advocacy

www.amnesty.org/en/documents/pol40/7764/2018/en/

The Body Politics Training Manual

provides detailed lesson plans and instructions on the content and structure of the series:

- Training delivered in-person or via webinar
- Intersectional analysis framework
- Participatory learning activities

www.amnesty.org/en/documents/pol40/7771/2018/en/

AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL




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