



Submission for the Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation to sex workers

Alternative Report
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Submitted by:

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The Silver Rose Movement is an all-Russian movement of activists and advocates for sex workers' rights. Its mission is contributing into policies towards sex workers based on humanity, tolerance, promoting health, and protection of human rights and dignity. Set up in 2006, today the movement brings together 450 leaders of sex workers in over 35 regions of the Russian Federation. This organization has been monitoring acts of discrimination and human rights violations against sex workers and conducts thorough research in this area. In 2014-2016, Silver Rose provided 2,304 legal consultations about detentions and convictions under the Article of the Administrative code penalizing sex work in Russia, and this is used as evidence to put together this report.

In 2013, the Ministry of Justice of the Russian Federation twice refused to register the first association of sex workers in Russia "Silver Rose" to protect health, contrary to the Article 2 of the Covenant on Economic, Social and Cultural Rights (hereinafter Covenant). The trial court and the court of appeal upheld the authorities' position. As a justification for the refusal the authorities referred to laws, which prohibit prostitution in Russia.¹

This report stipulates economic, social, and cultural rights violations that sex workers face due to our status as "sex workers" and prosecution under the Russian Administrative Code Article 6.11, penalizing engagement "prostitution". This report outlines the impact of police raids against us on our living and working conditions, and our vulnerability to violence and to HIV.

Background

Sex workers are defined as "female, male and transgender adults and young people who receive money or goods in exchange for sexual services, either regularly or occasionally, and who may or may not consciously define those activities as income-generating".² It should be noted, however, that no single term adequately covers the range of transactions worldwide that involve sex work. The term "sex worker" is increasingly used within the sector, as it is considered less stigmatizing and a better descriptor of workers'

¹ F. S. E. Arps and M. Golichenko. Sex Workers, Unite! Litigating for Sex Workers' Freedom of Association in Russia. Health and Human Rights International Journal, December 2014.

² UNAIDS, "Sex work and HIV/AIDS", UNAIDS Technical Update (2002), p. 3.

experiences than the word "prostitute".³

The International Labour Organization recognizes voluntary sex work as a form of labour⁴ as does the Committee on the Elimination of all Forms of Discrimination Against Women.⁵

Although sex work is often stigmatized and morally condemned, this is often the result of the state's failure to respect, protect and fulfill the rights of sex workers. Sex work doesn't fit the Government's ideas of morality, and it starts from two quite opposite positions: that all "prostitution" is violence against women⁶ or all sex workers are criminals and deserve bad treatment. As a result, sex workers do not forfeit their rights in accordance with the Covenant due to political or moral condemnation of sex work.

Article 6 of the Covenant (combined with Article 2 and Article 3) contains a protection against discrimination in achieving realization of the right to work encompasses all forms of work, whether independent or dependent wage-paid work.⁷ Article 11 recognized the right to adequate standard of living, which guarantees legal protection against forced eviction, harassment and other threats.⁸

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health addressed the issue of protection of workers in the informal economy as well with regard to the right to health (Article 12) and occupational rights:⁹

"The denial of sex workers' enjoyment of the right to health that results from the criminalization of sex work and related practices (such as solicitation) ... Access to health services is impeded, and occupational risk increases. Basic rights afforded to other workers are also denied to sex workers because of criminalization, as illegal work does not afford the protections that legal work requires, such as occupational health and safety standards.

The decriminalization or legalization of sex work with appropriate regulation forms a necessary part of a right-to-health approach to sex work, and can lead to improved health outcomes for sex workers. Any regulation of the sex sector should be implemented in accordance with a right-to-health framework, and should satisfy the requirement of safe working conditions as incorporated into the right to health. Decriminalization, along with the institution of appropriate occupational health and safety regulations, safeguards the rights of sex workers. Where sex work is legally recognized, the incidence of violence may also be reduced, through the enforcement of laws against abuse and exploitation".¹⁰

Amnesty International, in its May 26, 2016 policy paper titled "Amnesty International Policy on State Obligations to Respect, Protect, and Fulfil the Human Rights of Sex Workers," available from amnesty.org, wrote:

"Amnesty International considers that to protect the rights of sex workers, it is necessary not only to repeal laws which criminalize the sale of sex, but also to repeal those which make the buying of sex from consenting adults or the organization of sex work (such as prohibitions on renting premises for sex work) a criminal offence...

The fact that various aspects of sex work are treated as criminal conduct in many countries

³ Ibid. The term "sex worker" shall be used throughout this report, except where relevant materials use other terminology.

⁴ Lim, *The Sex Sector: the economic and social basis of prostitution in SE Asia*, ILO 1998).

⁵ Committee on the Elimination of Discrimination against Women, Concluding observations on second and third German periodic country report, 2000, para. 325.

⁶ T. Sanders, Article "Against The Grain: 'Sex Workers Must Be Protected'", Mar. 8, 2007.

⁷ CESCR General Comments 18, para. 6.

⁸ CESCR General comment No. 7. The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, para

⁹ Anand Grover, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2012, A/HRC/20/15.

¹⁰ Ibid.

means that sex workers cannot rely on support or protection from the police. For many sex workers, reporting crimes experienced during the course of their work means putting themselves at risk of criminalization and/or penalization on the basis of their involvement in sex work, seizure of their earnings, potential loss of their livelihood through related sanctions and/or monitoring by the police to detect their clients. As a result, sex workers are frequently unable to seek redress for crimes committed against them, thereby offering impunity to perpetrators. In addition, the stigmatized and criminalized status that sex workers experience gives law enforcement officials in many countries the scope to harass, extort and perpetrate physical and sexual violence against them, also with impunity. When they are not threatened with criminalization/penalization, sex workers are better able to collaborate with law enforcement to identify perpetrators of violence and abuse, including human trafficking." ¹¹

It's notable that in the recent Concluding observations by the CEDAW Committee to the Russian Federation addressing violence, the Committee mentioned that:

"The Committee calls on the Russian Federation to repeal a provision of its Administrative Code, which penalizes prostitution, and to establish an oversight mechanism to monitor violence against women involved in prostitution, including by the police." ¹²

Here we would also like to clarify why we think that criminalizing clients of sex workers is not a solution for Russia: the current practices to persecute sex workers are easier to maintain both by the society and by law enforcement. It's much easier to find and prosecute a sex worker, rather than a client. These situations of violence and discrimination take many years and are rooted within the Russian society to become naturalized; thus, the social stigma naturalizes violence and discrimination against sex workers, and there is no punishment or penalty against it, but absolute impunity. It is time to put aside moralistic prejudices, whether based on religion or an idealistic form of feminism, and do what is in the best interests of sex workers and the public as a whole. ¹³

In addition to human rights arguments in favor of "decriminalization of sex work and the elimination of the unjust application of non-criminal laws and regulations against sex workers to recognize and respect sex work as a legitimate occupation or livelihood" ¹⁴, there are serious public health considerations. Laws criminalizing or onerously regulating sex work compound the stigmatization experienced by sex workers, are adversely affecting health outcomes, often without justification on the grounds of public health.

In its 2013 publication on how to implement comprehensive HIV/STI Programmes with sex workers, WHO, UNFPA, UNAIDS, NSW, World Bank and UNDP describe practical approaches from collaborative interventions, overlooking actions to **"decriminalize or de-penalize sex work in order to reduce fear among sex workers and increase condom use"** as a part of national policies crucial for HIV prevention. ¹⁵

The Lancet, a medical journal, in March 2017, published an article on cross-sectional, ecological regression models with data from 27 European countries on HIV prevalence among sex workers and country-specific legal documents. The methodology of this research uses the state of the rule of law and gross-domestic

¹¹ Amnesty International, Amnesty International Policy on State Obligations to Respect, Protect, and Fulfil the Human Rights of Sex Workers, May, 2016.

¹² CEDAW, Concluding Observations: Russian Federation, UN Doc. CEDAW/C/RUS/CO/8, 2015, paras. 25- 26

¹³ Jeanne LoCicero, JD, Deputy Legal Director of the American Civil Liberties Union (ACLU) of New Jersey, and Udi Ofer, JD, Deputy National Political Director and Director of the Campaign for Smart Justice at the American Civil Liberties Union, in their July 6, 2016 article for nj.com

¹⁴ Implementing comprehensive HIV/STI programmes with sex workers: Practical approaches from collaborative interventions, WHO; UNFPA; UNAIDS; NSW; World Bank; UNDP, p. 4, October 2013.

¹⁵ Implementing comprehensive HIV/STI programmes with sex workers: Practical approaches from collaborative interventions, WHO; UNFPA; UNAIDS; NSW; World Bank; UNDP, p. 89, October 2013.

product per capita, adjusted for purchasing power. The research suggests the following findings and interpretation:

“Countries that have legalised some aspects of sex work have significantly lower HIV prevalence among sex workers than countries that criminalise all aspects of sex work, even after controlling for the level of economic development and the proportion of sex workers who are injecting drug users. We found that the relation between sex work policy and HIV among sex workers might be partly moderated by the effectiveness and fairness of enforcement, suggesting legalisation of some aspects of sex work could reduce HIV among sex workers to the greatest extent in countries where enforcement is fair and effective. Our findings suggest that the legalisation of some aspects of sex work might help reduce HIV prevalence in this high-risk group, particularly in countries where the judiciary is effective and fair.”¹⁶

Sex work and related problems in Russia

In the Russian Federation, there is a discriminatory domestic legislation that prevents sex workers from fully enjoying their economic, social and cultural rights. The Article 6.11 of the Administrative Offences Code on ‘prostitution’ and related policies that criminalize and stigmatize sex workers facilitate human rights abuses against sex workers by creating pretexts for agents of the state to control and punish sex workers. Despite the fact that sex work is not a crime, the police treats sex workers as criminals, while sex work (“prostitution” in government-endorsed regulations) in Russia is considered an administrative offense,¹⁷ while everything in connection with “prostitution” (i.e. organization of “prostitution”) is treated as a criminal offense with a penalty of up to 8 years in prison.¹⁸

According to the Russian Supreme Court, in 2015, magistrates considered 12,269 administrative cases under Article 6.11 and convicted 10 536 persons¹⁹ vs total of 60 persons convicted under criminal article 240 (engaging others into “prostitution”) and 123 persons under Article 241 (organizing of the “prostitution”) of the Criminal Code. This clearly demonstrates that police disproportionately target sex workers rather than those involved in organizing sex work.

The existing practice can be described so that sex work has been technically licensed by the police. Sex workers and the venues are known to the police, and thus they can be kept under supervision at all times. Women are arraigned in the police stations and before the court and invariably plead guilty. Sex work is punishable with a fine of 1500 to 2000 rubles (21 to 28 euro). After that they pay a fine, and the government derives a revenue from this source. In 2015, sex workers paid 17,555 million rubles as fines (250,785 euro). In some regions of Russia, sex workers pay higher fines, up to 7000 rubles (100 euro) with no legal grounds for this. The fine itself means that a sex worker needs to pay it now, and with no other professional occupation, that puts sex workers back to the streets and into brothels.

The main rhetoric in Russian courts under Article 6.11 focuses on attempts to define the term “prostitution”. Indeed, there is no unified position on judicial definition of term “prostitution” as Article 6.11 does not give a definition of ‘prostitution’. Meanwhile, under Article 6.11 of the Administrative Code, the courts of the 1st and 2nd jurisdiction focus on analysing the combination of the elements of an offense; the courts directly refer to the comments by Deputy Chairman of the Supreme Court. That is not legal, as an explanation of these terms is belongs solely to a legislative power. The above mentioned legal uncertainty in reality means, that a magistrate can find a woman guilty under article 6.11 without her participation in a trial, only based on allegations that police officers put forward in the report.

There are some other effects of the police raids, which have a devastating impact on our right to fair trial and equal participation in decision making with regards to sex work. Frequently, the police conducts its

¹⁶ A. Reeves, S. Steele, D. Stuckler, M. McKee, A. Amato-Gauci, J. C Semenza, National sex work policy and HIV prevalence among sex workers: an ecological regression analysis of 27 European countries, the Lancet, Volume 4, No. 3, e134–e140, March 2017.

¹⁷ Section 6.11 of the Russian Federation Code of Administrative Offences

¹⁸ Section 240 and 241 of the Russian Federation Criminal Code

¹⁹ Supreme Court Statistics, Accessed on December 26, 2016 <http://www.supcourt.ru/second.php>

raids, together with the media, which then airs materials demonstrating faces of sex workers and shaming them. In these broadcasts, we, sex workers are depicted as criminals; television crews immediately bring in this verdict. "The police conducted a raid and arrested prostitutes" is the most common phrase in the criminal chronicle.²⁰ Featuring sex workers on television in the criminal news in a prejudicial and hateful manner at times happens with the use of the police videos, which cannot be demonstrated to the public because of the benefit of the doubt, and as soon as the image of the person is an integral part of the privacy. This forms a public opinion and an environment, where the detainment of sex workers seems 'lawful' in public consciousness based on high frequency of such TV broadcasts. These ways of portraying sex workers make it hard for them to disclose their occupation, self-organise and advocate for their rights.²¹

The political public debate on sex work is harsh, and sex workers are not involved or heard by the legislative powers when legislating on sex work, i.e. the government does not take advice from sex workers in deciding their conditions. State institutions depict sex workers as self-destructive or self-deceiving, and thus in need of rescue.²²

Article 6.11 of the Administrative Offences Code on "prostitution" brought sex workers out of legal field. A criminal status that is placed on sex workers through punitive laws and policy means that they are severely disadvantaged in seeking justice and redress for violent crimes against them, offering attackers impunity and leaving sex workers at risk of further violence and abuse²³. Any moral arguments that drive the discussion on sex work in Russia start to fall apart when we consider the conditions of abuse suffered by real women doing sex work.

Article 2. The rights to non-discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The criminalization of sex work violates our right to non-discrimination. In 2013, the first All-Russian Sex Workers' Association was refused the official registration by the authorities in Saint Petersburg. The trial court and the court of appeal upheld the authorities' position. As a justification for the refusal the authorities referred to laws, which prohibit "prostitution".²⁴ The Ministry of Justice (MoJ) in its refusal argues, that sex workers are not in the professions qualifier, the country's definition of legal professions, as of 1994, and that the creation of the organization will lead to incitement of ethnic hatred; that sex workers are asocial elements that would violate orthodox values, concluding that the government can control the private lives of citizens.

We argue that since this discrimination is directly based on our occupation of sex workers, criminalization of sex work itself is an unjustified discriminatory measure. Additionally, the stigma and discrimination directly result from the criminalization of sex work – by state and non-state actors. The Government forced Silver Rose to remain an unregistered association - limiting our ability to act as a group in civil and political life - and, we argue, this discriminatory decision has further stigmatized us. Because of the Ministry's of Justice refusal to allow the Association to register, no one who engages in sex work can freely associate as an organization, or pursue their aims of protecting and affirming human rights, because of our occupation.²⁵ Criminalization of sex work, in other words, leads to institutionalized stigmatization and discrimination.²⁶

The criminalization of sex work also worsens the position and discriminates against of migrants and refugees, as engaging in this type of work might make them more visible and liable to being targeted by state authorities. The migrants can be detained for 48 hours if compared to 3 hours for administrative offences.

²⁰ Content analysis of media representations of sex workers in Russia, Silver Rose, 2014-2016.

²¹ Structural violence. Social and institutional oppression experienced by sex workers in Europe. Community report, International Committee on the Rights of Sex workers in Europe, 2015, Amsterdam.

²² Ibid.

²³ C.M. Lowndes, et al., Injection drug use, commercial sex work, and the HIV/STI epidemic in the Russian Federation.

²⁴ F. S. E. Arps and M. Golichenko, Sex Workers, Unite! Litigating for Sex Workers' Freedom of Association in Russia), Health and Human Rights International Journal, December 2014.

²⁵ Ibid

²⁶ UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, UN Doc. No. A/HRC/14/20 (2010), p. 4.

Thus, they are absolutely dependent on the police officers. This means that the existing laws allow state authorities to treat migrants and refugees even worse than sex workers of Russian citizenship.

The Silver Rose documented at least 8 cases when sex workers of African origin were subjected to brutal forms of violence, including killings by throwing them from the windows of apartment houses to remove evidence of violence and killings. No information on whether the perpetrators were punished is available; the investigations are carried out with multiple violations. Another threat for migrant sex workers is the traditional religious community, mostly muslim, the diaspora of their countrymen in Russia. Silver Rose documented them perpetrating 'correctional' violence based on 'immoral' behavior and informing sex worker family back home.²⁷ We witness an implication of racial hatred based on the nazi ideology, e.g. treating sex workers from African countries with special cruelty, and on impunity as the police does not investigate these crimes. Often, the victims themselves don't turn to police as they might have problems with migration documents. Thus, migrant status negatively impacts opportunities to seek justice and access legal remedies, and leads to further discrimination and violence.

Article 3. The equal right of men and women to the enjoyment of all economic, social and cultural rights

The Ministry of Internal Affairs (MIA) introduced a database with all criminal and administrative data since 1995, where data are stored for an unlimited term or for 80 years according to other sources. Although this information is compulsory for employment in the government and related services, financial institutions and higher management positions, it is widely used by all kinds of employers, banks and security service at enterprises. The questions on criminal and administrative records are included during the employment interviews, however never used as an official reason for rejection to the candidates as they can then sue the decision in court. This directly impacts sex workers, impeding those willing to quit from leaving sex work and leading some of them to continue selling sex. Another negative impact is that the same record impedes them from receiving mortgages or loans to buy property and pay education fees.²⁸ Thus, records under Article 6.11 serve as a thinly veiled reason for labour discrimination and discrimination in finance solutions, often orally communicated in unofficial conversations. Records under Article 6.11 – being a past, expired administrative, not a criminal offence - make us less employable, and further lower our employment and property ownership prospects once we choose to quit sex work. That tracks of administrative records of engagement in sex work are reasons for losing jobs and often being downgraded to unqualified jobs in the labour market.

Article 6. The right to work

The criminalization of sex work often means that we, sex workers, are unable to enforce our basic rights, as our status and work are illegal. The Committee has stressed that state parties must take the requisite measures to reduce to the fullest extent possible the number of workers outside the formal economy to ensure workers who have no protection.²⁹ The Committee stresses a special focus on marginalized and vulnerable groups both in relation to the right to work and interdependent rights as state obligations towards these groups are considered core obligations within these rights.

Although the Russian Federation recognizes that "reducing the share of the informal sector in the Russian Federation is extremely important both for the individual constituent entities and for the country as a

²⁷ For more information on cases, please refer to our previous submission entitled: Submission for the Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation to sex workers, Alternative Report, 2017, Russian movement of activists and advocates for sex workers' rights 'Silver Rose'.

²⁸ For more information on cases, please refer to our previous submission entitled: Submission for the Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation to sex workers, Alternative Report, 2017, Russian movement of activists and advocates for sex workers' rights 'Silver Rose'.

²⁹ CESCR General Comments 18, para. 10.

whole”,^{30 31} the focus is still kept on “the budgetary losses of social contributions and tax receipts at all levels”,³² rather than on human rights issues. According to the Russian State Statistics Service, in 2017 the number of recipients of informal payments has roughly equaled that of those officially employed amounting to 33,3 mln people. Thus, official employment does not give greater protection to the right to work and social guarantees overall³³, having driven underground Russia’s estimated three million of sex workers who are, in addition to that trend, criminalized.³⁴ It leads to a de facto ban for women and, to a less proportion, men who choose sex work, to exercise their economic, and social rights³⁵ – such as the right to work and the right to free choice of employment – and also relegates them to the margins of the legitimate labour market, since they are forced to operate outside of the formal economy.³⁶

To ensure that jobs are created on a large scale, there is a need to recognize that all sectors, including commercial sex services, that have the potential to generate direct and indirect employment. When working in fear of legal oppression, sex workers are deprived of full control over their work environments and devoid of means of protection, whether in the form of condoms, which may be confiscated by the police as evidence of their involvement in sex work,³⁷ or access to legal remedies. Choosing to prosecute this large amount of women, three million of them, already involved in sex work rather than decriminalizing this activity, the government escapes the necessity to create jobs for women hit by the economic crisis.

Article 11. The right to an adequate standard of living

Since our occupation is legally prohibited, sex workers suffer from violence, and event killings, at the hands of law enforcement agents.³⁸ “Test purchase” as a police incitement to provoke crimes under Article 6.11. or a form of entrapment has become an everyday routine during police raids against sex workers. There are no legal grounds as sex work is neither commerce nor a crime, but an administrative offence, as classified by the law. Within the Russian legislation, “test purchases” in relation to sex are unlawful conduct, as sex work falls, even under the existing law, in the category of offenses rather than crimes. ‘Test purchase’ of sexual services is not enforced by Russian legislation due to lack of a laws on the regulation of “prostitution” and/or on combating “prostitution”, and therefore the test purchases in form of raids have no legal grounds for practicing only under the Articles 240 and 241 of the Criminal Code.

During the police raids, the perpetrators break the doors and furniture, rob and beat sex workers, film them and take photos, publish them on the internet and social networks, extort money, mobile phones, tablets and computers, retain identity cards, all with impunity.³⁹ The raids are followed by an unlawful detention in most cases exceeding three hours (arrest), for a period ranging from several hours to several days, accompanied with detention humiliation, torture in police stations, slave labour and denial of counsel. Many sex workers sign statements of self-incrimination by threats of violence, extortion of large amounts of money or threats to

³⁰ List of issues in relation to the sixth periodic report of the Russian Federation. Addendum, Replies of the Russian Federation to the list of issues, Committee on Economic, Social and Cultural Rights, Sixty-second session, 18 September-6 October 2017, Agenda item 6 (a), Consideration of reports: reports submitted by States parties in accordance with articles 16 and 17 of the Covenant, accessed July 2017.

³¹ National security strategy of the Russian Federation, which was approved by Presidential Decree No. 683 of 31 December 2015.

³² Ibid

³³ Editorial: converting the crisis, Newspaper Vedomosti, № 4392 as of 24.08.2017 accessed August 2017 <https://www.vedomosti.ru/opinion/articles/2017/08/24/730773-zarplat-konvertah>

³⁴ Press-conference of the Silver Rose movement on December 17, 2013, International Day to End Violence Against Sex workers <http://www.gazeta.ru/social/2013/12/17/5807973.shtml>

³⁵ F. S. E. Arps and M. Golichenko, Sex Workers, Unite! Litigating for Sex Workers’ Freedom of Association in Russia. Health and Human Rights International Journal, December 2014.

³⁶ Structural violence. Social and institutional oppression experienced by sex workers in Europe. Community report, International Committee on the Rights of Sex workers in Europe, 2015, Amsterdam.

³⁷ Ibid.

³⁸ Tania, covered with darkness, the story of a sex worker killed by a police officer, Accessed on December 26, 2016 <http://www.mk.ru/social/article/2013/09/17/916743-tanya-pokryitaya-mrakom.html>

³⁹ For more information on cases, please refer to our previous submission entitled: Submission for the Committee on Economic, Social and Cultural Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights in the Russian Federation to sex workers, Alternative Report, 2017, Russian movement of activists and advocates for sex workers’ rights ‘Silver Rose’.

disclose sex workers' identity to the family or children. In some cases, that can lead to depriving of a custody of a child. Once signing a statement that leads to self-incrimination, sex workers face criminal records and then out lives are compromised.

During the police raids for 'test-purchase', we, sex workers, are most vulnerable to violations of our right to housing, right to security of the person, and to privacy. Certain violations of these rights can be characterized as a denial of the right to housing or possibility of having appropriate shelter and protection from violent or unlawful evictions, - guaranteed by the Russian Constitution, - which is non-existent for us, sex workers, during the police raids.

We "live in fear" and feel unable to report crimes against us to the police due to fear of arrest. Silver Rose documented attacks in brothels, when gangs, having inherited the style of police raid, practice armed assault and robbery. The gangs often call the police in order to cover up the tracks of their crimes, and wait for the police to arrive. Usually, none from abusers gets arrested, but sex workers. The gangs often hand sex workers to the police, and police treats sex workers as criminals rejecting them to file claims of violence and robbery. As the doors of the premises are left ruined, it is not safe to return, thus sex workers get evicted from their homes, many of them are forced to immediately change the place where they live and work.

"Prostitution" laws present a violation of the right of individual privacy because they impose penal sanctions for the private sexual conduct of consenting adults. Whether a person chooses to engage in sexual activity for purposes of recreation, or in exchange for something of value, is a matter of individual choice, not for governmental interference. Police use of entrapment techniques to enforce laws against this essentially private activity is reprehensible. Similarly, the use of loitering and vagrancy laws to punish prostitutes for their status or to make arrests on the basis of reputation and appearance, is contrary to civilized notions of due process of law. ⁴⁰

Article 12. The right to the highest attainable standard of health

We face discrimination when accessing healthcare services, which serves as a further impediment to accessing services. The criminalization of sex work infringes on the enjoyment of the right to health, by creating barriers to access by sex workers to health services and legal remedies. When sex workers are not recognized as engaging in legitimate work, they are not recognized by standard labour laws. Sex workers often cannot gain access to State benefits, and are not protected by occupational health and safety regulations that routinely protect employees in other industries. ⁴¹

Indeed, there are more issues, related to health, beyond HIV, but in this report, we would like to stress the vulnerability to HIV. In its Concluding observations in 2003, the Committee on Economic, Social and Cultural Rights called⁴², in line with its general comment No. 14 (2000) on the right to the highest attainable standard of health, calls the State party to take urgent measures to stop the spread of HIV.

Evidence indicates that criminalization interferes with and undermines sex workers' right to health services and information, in particular the prevention, testing and treatment of HIV. Worldwide, we, sex workers, are recognized as a group vulnerable to HIV. While on average 4.5% of sex workers are living with HIV, prevalence among street sex workers is as high as 50% in some cities.⁴³ In Russia, because of criminalization, sex workers are considered as criminals either directly or as enforced, and are still not fully recognized as a key population in HIV response in concrete indicators of coverage of sex workers, people 'involved in prostitution' are hardly mentioned in the new State strategy for the prevention of the spread of HIV in the

⁴⁰ The American Civil Liberties Union (ACLU), Policy 211, 2007.

⁴¹ Anand Grover, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2012, A/HRC/20/15.

⁴² Concluding observations for the Russian Federation in 2003, the Committee on Economic, Social and Cultural Rights.

⁴³ UNFPA, Office in Russia. Inter-Ministerial Meeting, Moscow, October 30-31,2012.

Russian Federation for the period up to 2020 and beyond.⁴⁴ In 2017, no projects by NGOs were selected to for funding by the Presidential grants that targeted sex workers for HIV prevention.⁴⁵

This implies the absence of funding to prevent HIV in sex workers will persist as a priority in HIV programs can easily be given to some “good” women and men, who don’t need any investment into anti-stigmatizing approach in public health facilities.

Key Recommendations to the Government

To conclude, Article 6.11 forces sex workers to operate covertly in ways that compromise their safety, prohibits actions that sex workers take to maximize their safety, and serves to deny sex workers support or protection from government officials. The Russian legislation and police practices cause many difficulties and violent consequences for sex workers putting them in shadow; they do not enjoy the same rights as other workers and suffer prosecution and abuse. Legislative and law enforcement measures targeting to combat exploitation of sex workers in reality have the opposite effect making sex workers more vulnerable to violent assaults and exploitation as these crimes stay unreported and often are perpetrated by law enforcement itself. In turn, the lack of trust in police and authorities among sex workers presents a reason for the impunity of serious crimes. Thus, criminalization of sex work causes violence against sex workers dehumanizing women and men involved in sex work. Further, the law enforcement strategies directed against sex workers seem to contribute to risk taking behaviour and counter health initiatives.

There is ample evidence that restoration of human rights of sex workers through decriminalization.⁴⁶ Decriminalization is not at all a solution to every injustice that exists in the sex industry; it is a starting point. If prostitution were not an underground activity it would allow us to much more effectively address the serious problems of forced prostitution and the other abuses which are part of an industry that operates completely in the shadows.⁴⁷

The human rights abuses/violations by the legal and policy framework and state practice in Russia that Silver Rose sees as a result from criminalization of sex work and existing stigma and discrimination against sex workers are:

Article 2. The rights to non-discrimination as the sex workers’ association was refused the official registration based on laws, which prohibit “prostitution”. The criminalization of sex work also worsens the position and discriminates against migrants and refugees, and women of color. The overall approach towards undocumented migrant sex workers focus primary on law enforcement efforts targeting illegal migrants rather than a sensitive response to a vulnerable group experiencing various health problems and assaults.

Article 3. The equal right of men and women to the enjoyment of all economic, social and cultural rights as sex worker’s economic rights are further undermined by the fines and tracks of administrative records of engagement in sex work and featuring sex workers on television as criminals. The

⁴⁴ Approved by Government Order No. 2203 of 20 October 2016 and referred to in the List of issues in relation to the sixth periodic report of the Russian Federation. Addendum, Replies of the Russian Federation to the list of issues, Committee on Economic, Social and Cultural Rights, Sixty-second session, 18 September-6 October 2017, Agenda item 6 (a), Consideration of reports: reports submitted by States parties in accordance with articles 16 and 17 of the Covenant, accessed July 2017.

⁴⁵ Webpage of the Fund of Presidential Grants for NGOs, winners announcement, accessed August 2017 <https://xn--80afcdbalict6afooklqi5o.xn--p1ai/Project?orderStatus=16>

⁴⁶ B. Donovan, Sexual Health at National Centre in HIV Epidemiology and Clinical Research of the University of New South Wales, *The Lancet*. Prostitution: To Decriminalise or To Legalise. Oct. 5, 1996.

⁴⁷ C. Leigh, Bay Area Sex Workers Advocacy Network (BAYSWAN), "Justice Talking" on National Public Radio (NPR), Mar. 4, 2002.

criminalization of sex work often means that sex workers feel unable to enforce their basic rights, as their status and work are illegal.⁴⁸

Article 6. The right to work is denied to sex workers in Russia. Due to criminalization, this sector is effectively driven underground, which has been noted to create an environment of increased violence.⁴⁹ Sex workers have no opportunity to gain the living by work which we freely choose or accept.

Article 11. The right to an adequate standard of living as during the police raids for 'test-purchase', we, sex workers, are most vulnerable to violations of our right to housing, including forced evictions, right to security of the person, and to privacy. Sex workers have reported that they are highly vulnerable to police harassment, particularly in the forms of (a) sex by deception and coercion, (b) extortion and (c) discrimination (including moral punishment, public humiliation and extreme violence driven by contempt).⁵⁰

Article 12. The right to the highest attainable standard of health as the criminalization of sex work and the police raids undermine HIV prevention efforts, causing that sex workers are not recognized as a key population in the national HIV response and leading to the absence of funding to prevent HIV among sex workers or, in other words, meaning zero money to run programs for tackling our high vulnerability to HIV.

We urge the Committee to ask the Russian Government:

- To decriminalize sex work by removing administrative punishment for sex work or the consensual exchange of sexual services between adults for remuneration (Article 6.11 of the Code of Administrative Offences of the Russian Federation).
- To stop police raids and "test purchase" against sex workers, which only increase violence against sex workers and hinder public health efforts.
- To ensure sex workers have equal access to police protection, fair process and justice.
- To remove all records for administrative offense under the Article 6.11. from the database of the Ministry of Interior Affairs to prevent future discrimination in the workplace of those sex workers who wish to stop selling sex.
- To refer to the coverage of sex workers specifically in all strategic documents on HIV and in HIV program indicators.
- To fund from federal, regional and municipal budgets community-driven programs for sex workers based on human rights and evidence to prevent HIV and STI prevention, as sex workers represent a key population affected by HIV/AIDS.

⁴⁸ Anand Grover, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2012, A/HRC/20/15.

⁴⁹ Ibid.

⁵⁰ Ibid.