

# **SEX WORK IN NIGERIA: REGULATION, NOT CRIMINALIZATION**

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## **SEX WORK IN NIGERIA; REGULATION, NOT CRIMINALIZATION**

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### **ABSTRACT**

*It is pertinent to note that there is essentially no difference between prostitution and sex work. This would be expatiated upon in the course of this paper. Sex Work in Nigeria is illegal in all Northern States that practice the Islamic Penal Code. In the Southern part of Nigeria, the activities of pimps, underage prostitution and the ownership of brothels are penalized under Sections 223 to 225 of the Nigerian Criminal Code. This Article examines the history and prevalence of Sex Work in Nigeria, its causes, its effects, both positive and negative. It further seeks to examine the disposition of several jurisdictions towards Sex Work and Constitutional provisions protecting sex workers with regards to their freedom of choice, freedom from discrimination, among others. In entirety, this paper attempts an appraisal of the need to decriminalize and subsequently regulate sex work in Nigeria and not criminalize or victimize sex workers.*

### **1.0. INTRODUCTION**

In the words of Alessandra Torre, “I hate Society’s notion that there is something wrong with a woman who loves Sex.” As stated in the abstract, there is essentially no difference between Prostitution and Sex Work.<sup>1</sup> However, the terms “Prostitute” and “Sex Worker” are used in different ways. Sex Work is the term sex workers want their occupation to be described as. It emphasizes that what they do is an occupation. It also brings up the presumption that people are not necessarily defined by their jobs. Prostitution, on the other hand, is seen by sex workers as offensive and demeaning. They believe that the term robs them of their personhood. Just to be safe and to sound less offensive, it is more appropriate to use the term ‘sex worker’. Above everything, it is the most precise and neutral description.

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<sup>1</sup> C. LeRoq, “What is the difference between sex workers and prostitutes”, available at <https://www.quora.com/What-is-the-difference-between-sex-workers-and-prostitutes>, (accessed 8 February 2020).

Sex Work can be defined as the provision of sexual services for money or goods. Sex Work as a practice has over the years been identified as such in the history of mankind. As a matter of fact, it is seen as one of the oldest professions in the world, if not the oldest.<sup>2</sup> Sex workers may be male, female or transgendered and the boundaries of sex work are somewhat vague, ranging from erotic and lascivious displays without physical contact with the client to high risk unprotected sexual intercourse with clients.<sup>3</sup> The Abuja Federal High Court, presided over by Justice Binta Nyako, sometime in December 2019, declared that officials of a security task force contravened the law when they broke into apartments in the suburbs of Abuja around 11p.m in February 2017, to arrest women accused of being prostitutes.<sup>4</sup> This is certainly a milestone in the regulation of sex work.

Sex Work is a matter of choice and apart from the spread of Sexually Transmitted Diseases (STDs), there is no threat that sex work poses to the society. *Section 39(1) of the 1999 Constitution* provides for freedom of expression. Every citizen of Nigeria has the right to express himself or herself in so far as such expression is not a hindrance to other citizens' or does not pose any form of threat to other citizens. Sex Workers should not be victimized or assaulted. Globally, sex workers have a 45% to 75% chance of experiencing sexual violence at some point in their careers and a 32% to 55% chance of experiencing sexual violence in a given year.<sup>5</sup> In 2012, it was estimated that there were between 40 and 42 million prostitutes in the world.<sup>6</sup> This statistic shows the economic benefit that can be

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<sup>2</sup> F. Wickman, "Is Prostitution Really the World's Oldest Profession", available at <https://slate.com/news-and-politics/2012/03/rush-limbaugh-calls-sandra-fluke-a-prostitute-is-prostitution-really-the-worlds-oldest-profession.html>, (accessed 8 February 2020).

<sup>3</sup> C. Harcourt and B. Donovan, "The many faces of Sex Work" (2005) 81(3) *Sex Transm Infect*.

<sup>4</sup> C. Ukpong, "Nigerian court rules against arrest of sex workers", available at <https://www.premiumtimesng.com/news/more-news/369034-nigerian-court-rules-against-arrest-of-sex-workers.html> (accessed 3 February 2020).

<sup>5</sup> K. Koster, "17 facts about Sexual Violence and Sex work", available at [https://www.huffpost.com/entry/16-facts-about-sexual-ass\\_b\\_8711720](https://www.huffpost.com/entry/16-facts-about-sexual-ass_b_8711720), (accessed 8 February 2020).

<sup>6</sup> G. Lubin, "There are 42 million prostitutes in the world, and here's where they live", available at <https://www.businessinsider.com/there-are-42-million->

gained from the activities of sex workers. New South Wales, Australia, decriminalized sex work in 1995; New Zealand legalized prostitution in 2003 alongside several other jurisdictions which would be discussed in the course of this paper.

With the constant spate of arresting, detaining and victimization of sex workers all over the country, it is not farfetched to assume that Sex Work is an offence in Nigeria. Nevertheless, no particular part of the Constitution prohibits Prostitution in Nigeria. It is however pertinent to note that the Criminal Code criminalizes “procuring and other related offences” which although may have an affinity with prostitution, are not one and the same. However, the *Penal Code Act of FCT, 1990*, provides against prostitution. It defines prostitutes as “vagabonds”. This paper proposes the regulation of sex work. It is also pertinent to note that Sex work includes but not limited to activities of direct physical contact between buyers and sellers as well as indirect sexual stimulation. Furthermore, sex work only refers to voluntary sexual transactions, thus the term does not refer to human trafficking and other forceful or non-consensual sexual relations such as child prostitution or underage sex. The transaction must take place between consenting adults who are of the required legal age and mental capacity to provide consent and must be void of any form of coercion. A brief history of prostitution in Nigeria would be attempted next.

## 2.0. A CONCISE HISTORY OF SEX-WORK IN NIGERIA.

As debatable as the issue of the legality or otherwise of Sex work is, an Assistant Commissioner of Police, Mr. Abayomi Shogunle, has said that prostitution is a crime under the law.<sup>7</sup> However, He did not give his reasons for this assertion. He also said that prostitution is a sin

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[prostitutes-in-the-world-and-heres-where-they-live-2012-1?IR=T](#), (accessed 8 February 2020).

<sup>7</sup> N. Adebawale, “Arrest of women in Abuja: What Nigerian law says about Prostitution”, available at <https://www.premiumtimesng.com/news/headlines/329180-arrest-of-women-in-abuja-what-nigerian-law-says-about-prostitution.html> (accessed 29 January 2020).

under the two main religions practiced by residents of the Federal Capital Territory. An attempt to trace the history of Sex Work in Nigeria would thus be made.

Humans have exchanged money and goods for sex for thousands of years and indeed, it seems that any society that begins to develop material wealth soon begins to develop some form of Sex Work. The Holy Bible in fact depicts many Israelites as having large numbers of concubines, who could be regarded as either prostitutes or as wives of lesser status. King Solomon had about 300 of them, according to 1 Kings 11:3. Beginning in the early 1900s, the rising economic importance of Lagos as a seaport and capital city changed the economic and political landscape of the city. These demographic and commercial changes expanded to the commoditization of sex and by the year 1910, commercial sex services had become prevalent in Lagos.<sup>8</sup> In the year 1916, the colonial government enacted a law prohibiting solicitation by women but the law did not define prostitution. The Law was implemented by the government's discretion and commercial sex work was tolerated as long as it did not cause public nuisance. In 1932, popular musician, Tijani Omoyele, released an album titled "Asewo/Omo Jaguda", which is translated in English as "Prostitutes are criminals". During the late 1930s, sex workers became popularly called "Ashewo" (people who change money into lower denominations). As a matter of fact, during the period before the World War II, commercial sex workers solicited clients in brothels, cinemas and hotel bars.<sup>9</sup> By the onset of the World War II, British officials became apprehensive of any link between high venereal disease rates in West African Frontier Force soldiers and promiscuous sexual affairs with prostitutes.<sup>10</sup> During this period, forced prostitution of teenagers was increasing. In the year 1942, an institution was built to rehabilitate child prostitutes in Lagos and a year later, *The Children and Young Persons Ordinance* was passed, prohibiting

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<sup>8</sup> A. Saheed, "Of gender, race and class" (2012) 33(3) *Frontiers: A journal of women studies*, pp. 71 – 92.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Supra* n 7.

child prostitution.<sup>11</sup> By 1946, a set of laws was enacted that clearly defined prostitution and reiterated its prohibition.

After Nigeria gained independence in 1960, brothels and areas notorious for prostitution that had been prohibited in the middle 1940s began to reappear.<sup>12</sup> Towards the early 1980s, street prostitution became a common sight at Allen Avenue, Ikeja in Lagos and also in some areas of Oshodi, in Lagos. The 1980s also contributed to the beginning of call-ups or part time prostitution by young adults and graduates.

In the 21<sup>st</sup> Century, commercial sex work continues to thrive in Nigeria. According to statistics given by the *United Nations Interregional Crime and Justice Research Institute*, about 8,000 to 10,000 women of Nigerian descent practiced prostitution in Italy between 2000 and 2009.<sup>13</sup> A new and different form of Sex Work known as “corporate sex work” and which is mostly limited to financial institutions began to gain prominence in the 2000s. In 2004, a bankers’ union threatened to go on strike due to allegations that some female staff sleep with men for accounts. In as much as most financial institutions do not coerce women to engage in sexual activities in order to meet financial targets, it is nevertheless implied that many of them are not against it.

### **3.0. FORMS OF SEX WORK**

For the sake of further information, some forms of Sex Work would be identified.

#### **3.1. Street Sex Work**

Street Sex Work is a form of prostitution in which a sex worker solicits customers from a public place, usually on a street, while waiting

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<sup>11</sup> A. Saheed, “When Sex threatened the State: Illicit Sexuality, Nationalism and Politics in Colonial Nigeria”, (University of Illinois Press: 2014).

<sup>12</sup> *Ibid*, at p. 10.

<sup>13</sup> O. Aluko-Daniels, “At the margins of consent: Sex Trafficking from Nigeria to Italy”, available at [https://link.springer.com/chapter/10.1057/9781137391353\\_5](https://link.springer.com/chapter/10.1057/9781137391353_5), (accessed 10 February 2020).

at street corners or walking along a street.<sup>14</sup> They also solicit for customers from public places such as parks, beaches, clubs, restaurants etc., and they are often dressed in a provocative and seductive manner. The sexual act may be performed in the client's vehicle or in a secluded street location, or at the sex worker's apartment or in a hotel room.

### **3.2. Brothel Sex Work**

This type of Sex Work is the type whereby there's an establishment called a 'brothel' wherein the prostitutes sometimes reside and are supervised by a person usually referred to as a "madam" with sufficient social contact and influence to make the institution profitable.<sup>15</sup> In this situation, one or more males are usually on the premises to deal with unruly or homosexual clients. Brothels vary, and are mostly confined to certain areas of a city which can be regarded as outskirts which is just beyond the watch of municipal authority. This type of sex work is prevalent in majority of Nigerian cities. Brothel sex work is preferred in areas where sex work is decriminalized or where brothels are "tolerated".

### **3.3. Escort Sex Work**

Escort commercial Sex Work is a form of Sex Work where the agency provides clients with an "escort" for a fee, the "escort" being the sex worker and with sexual intercourse being a "private" matter between the escort and the client. It is the most covert form of sex work.<sup>16</sup> This type of sex work is relatively expensive because of low client turnover.<sup>17</sup>

### **3.4. Higher Institutions Transactional Sex**

Whether or not this type of sexual relation can be aptly categorized as Sex Work is yet to be seen. However, it would not be farfetched

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<sup>14</sup> A.A. Bagudo and M.A. Yusuf, "Addressing prevalence of Prostitution in Nigeria through non-formal education provisions" (2019) 7(2) *European Journal of Education and Development Psychology*, pp. 1 – 10.

<sup>15</sup> *Ibid*, at p. 3.

<sup>16</sup> H.L. Surratt, "What are the different types of Prostitution", available at <https://prostitution.procon.org/view.answers.php?questionID=000096>, (accessed 13 February 2020).

<sup>17</sup> *Ibid*.

to describe it as a form of sex work as it comes under the general definition of Sex work, only that it may not always be consensual or consent may be obtained out of misrepresentation or duress. This type of sex work has obviously been thriving for donkey years but it just came to the fore recently. It is a situation where female and male students of higher institutions make themselves available for sexual relations in exchange for marks, favours or monetary privileges from their lecturers and fellow students.

Other forms of sex work which are prevalent include private sex work, transport sex work (where sex workers board vehicles to transact with the crew or passengers), among a host of others. Also involved, are beer girls who are usually employed to sell and promote goods in bars and pubs. These ones, sometimes, engage in commercial sex with customers as a means of supplementing their income.

#### **4.0. IDEOLOGIES, STANDPOINTS AND JUSTIFICATIONS FOR SEX WORK**

##### **4.1. The Abolitionist group and the Sex Workers Rights Group**

These are two conflicting ideologies of Sex Work. The Abolitionist group are in support of the criminalization of Sex Work, while the Sex Workers Rights groups are in support of the decriminalization of Sex Work. It is of utmost importance to also note that there is a difference between decriminalization and legalization of sex work. Decriminalization refers to the removal of all and criminal and administrative prohibitions and penalties on sex work, including laws targeting clients, patrons and brothel owners. Legalization on the other hand refers to a legislative regime characterized by significant regulations.

In the opinions of Raymond J. G.<sup>18</sup> and Hayes-Smith, the abolition of Sex Work is hinged on the explanation that the term glorifies

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<sup>18</sup> J.G. Raymond, "Ten reasons for not legalizing prostitution and a legal response to the demand for prostitution" (2008) 2 *Journal of Trauma Practice*, pp. 315 – 322.

prostitution, a profession which contravenes and is against the moral dictates and structures of the society and also challenges the institution of marriage. Raymond further argued that sex work reduces a woman's self-worth and also objectifies her, by portraying her as an object that can be bought with money. Radical abolitionists on the other hand, postulate that Nigeria should walk in the foot-steps of Sudan by attaching a death penalty on Sex Work. Worthy of note is the fact that the abolitionist perspective is in line with the provision of the United Nations 1949 Convention that prostitution and the accompanying evil of the trafficking for the purpose of prostitution are incompatible with the dignity of the human person and therefore, endangers the welfare of the individual, the family and the community.

Although, Nigeria has adopted a hybrid prohibitionist-decriminalization scheme with regards to Sex Work,<sup>19</sup> sex workers' rights groups continue to clamour for the absolute decriminalization and have argued for the regulation of commercial sex work because it is a legitimate occupation, just like any other occupation and the decision to enter into the industry is a function of individual freewill and by implication, it is wrong to criminalize individuals' freewill. Hence, the prohibition and criminalization of sex work is an infringement on the rights of consenting adults to personal liberty and association and also their freedom of contract. The rationale for this is that women should have the freedom to make decisions about their body and any attempt to infringe on this freedom amounts to subjugation of women and approval of existing patriarchal order.

This writer is of the view of the decriminalization of sex work, then regulation of same; the main thrust of this paper. The criminalization of Sex Work would compromise the health of sex workers by driving sex work underground.<sup>20</sup> It is worthy of note that criminalization of sex work includes everything from criminalizing the sale and purchase of sexual services, to blanket prohibitions on the management of sex work. By implication, criminalization of sex work would make it harder

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<sup>19</sup> Criminal Code Act 1990, Cap. C38, Laws of the Federation of Nigeria, 2004.

<sup>20</sup> Open Society Foundations, "Understanding Sex Work in an Open Society", available at <https://www.opensocietyfoundations.org/explainers/understanding-sex-work-open-society> (accessed 27 February 2020).

for sex workers to negotiate terms with clients, work together with other sex workers for safety and carry condoms without the apprehension that such would be used against them as an evidence of prostitution.<sup>21</sup> As stated earlier, decriminalization and regulation of sex work would serve to uphold the freedom of choice of sex workers. Seymour J. Mandelbaum, a Professor Emeritus of City and Regional Planning at the University of Pennsylvania is of the opinion that lax regulation and over-criminalization of Sex Work can invariably lead to stigmatization and victimization of sex workers, increase in sexual violence, spread of diseases and other negative effects for the society.<sup>22</sup> Sex Workers rights groups believe that a regulated commercial sex industry will reduce the proliferation of brothels, underage sex workers and create employment for a young, vibrant, voluntary and healthy class of women that will contribute to national development through the payment of tax. The United States of America's State of Nevada, Netherlands and Germany are among jurisdictions which legalize and regulate Sex Work.

#### 4.2. Economic Standpoint

It is pertinent to note at this point that the Commercial Sex Industry is a very large industry which has the potential of providing economic benefits to a society. There are currently about 10,000 people working as lap-dancers in Britain and over 72,800 Sex Workers.<sup>23</sup> And almost all Brits are involved in Sex Work, either as a worker or a consumer. Furthermore, over half of Brits watch pornography, over a quarter has visited a strip club, and more than one in ten British men have solicited the services of a Sex Worker.<sup>24</sup> Through the services of sex workers, there is cash flow between both social strata and this consequently helps to mitigate inflation. This is because sex workers provide a service which is extremely high in demand. As a matter of fact, the

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<sup>21</sup> *Ibid.*

<sup>22</sup> P. Udeh, U. Uduka and S. Mbah, "Socio-economic effect of Commercial Sex Work in Abuja Suburb: A survey of selected brothels in Mararaba, Nigeria" 7(1) *Sociology and Criminology-Open Access Journal*.

<sup>23</sup> Economy Team, "How should economists think about sex work?", available at <https://www.ecnmy.org/engage/economists-think-sex-work/>, (accessed 22 February, 2020).

<sup>24</sup> *Ibid.*

World Health Organization (WHO) pushes that all countries should work towards the decriminalization of Sex Work.<sup>25</sup>

The Office for National Statistics (ONS), which collects national statistics, estimated that sex work alone put £5.3 billion into the U.K economy in the year 2009. In the same year, pornography put £1 billion, while strip clubs put £300 million.<sup>26</sup> That is a whole lot of money. The English Premier League, which is watched by nearly 5 billion people around the world, puts just £3.36 billion into the U.K economy each year. These statistics are just a few out of the many overwhelming statistics of sex work. Furthermore, chats with sex workers in the UK reveal that they earn an average of £2,000 a week, three and a half times more than the British average of £569.<sup>27</sup>

The decriminalization of sex work would help to maximize sex workers' legal protection and their ability to exercise other key rights, including their right to justice and health care. Legal recognition and protection of sex workers and their occupation maximizes their protection, dignity and equality.<sup>28</sup> An estimate provided by the Urban Institute says that Atlanta's sex trade/industry was worth a whopping \$290 million in 2007 alone. Miami's sex economy was worth \$235 million and Washington D. C.'s \$103 million.<sup>29</sup> The survey by the same Institute, found that pimps can make between \$5,000 per week (which is the average in Kansas City) to \$32,833 per week (in Atlanta).<sup>30</sup>

### 4.3. Arguments against Sex Work

The first and perhaps the most remote argument against sex work is morality. As stated earlier, sex work is simply two adults exchanging sex for cash or its equivalent. This definition is important because sex

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<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> Human Rights Watch, "Why Sex Work should be decriminalized", available at <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>, (accessed 27 February 2020).

<sup>29</sup> C. Kolodny, "9 things you didn't know about American Prostitution", available at [https://www.huffpost.com/entry/sex-trade-study\\_n\\_4951891](https://www.huffpost.com/entry/sex-trade-study_n_4951891), (accessed 27 February 2020).

<sup>30</sup> *Ibid.*

work is often fused with trafficking, sexual abuse of children and rape and as a matter of fact, it is these conflation that drive the scrutiny and negative attention and opinions the sex industry often faces. Saudi Arabia is an example of a jurisdiction that has relaxed their moralistic stance on Sex Work.

This writer is of the view that morality has no place in any discussion on Sex Work. It however has a way of creeping in – often times through the religious orders who are proposing the further criminalization of the trade.

Some schools of thought are of the view that condoning sex work is the most demeaning and degrading thing the State can do to women. Furthermore, they believe that there can be no dignity in a relationship where sex is exchanged for money.<sup>31</sup> They are also of the opinion that Sex Work is too exploitative by its very nature to count as something consenting adults should be allowed to do. But the evidence mustered for this tends to depend on a pre-existing moral bias against making Sex Work legal.

Another argument against Sex Work is that it is an exploitative profession that makes sex workers unhappy.<sup>32</sup> A large minority of Brits and two-thirds of young Brits think that sex work is a form of exploitation to women and should be a criminal offence, although men, trans and non-binary people all do sex work, about 88% of sex workers are female<sup>33</sup> The proponents of this argument further believe that Sex Work significantly reduces the quality of life of people by exposing them to things like violence, crime and drugs. It is not untrue that sex workers are in an industry that can make them vulnerable to crime and exploitation and it is based on this that the proponents of this argument stand.

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<sup>31</sup> C. Herlinger, “The worldwide debate about sex work: Morality meets reality”, available at <https://www.globalsistersreport.org/news/trafficking/worldwide-debate-about-sex-work-morality-meets-reality-48216>, (accessed 28 February 2020).

<sup>32</sup> *Supra* n 23.

<sup>33</sup> *Ibid.*

Fourthly and perhaps one of the biggest criticisms levelled against sex work is that it is fundamentally sexist. Some people point to the fact that the vast majority of sex workers are women and majority of clients are men to prove that Sex Work only exists because of a patriarchal view that sex should be about prioritizing the sexual desires of men and ignoring women. Others think that supporting prostitution encourages sexual violence by making some men believe that they have the right to obtain sexual gratification from just any woman.

Sex Work is also sometimes seen as a form of capitalist exploitation. Molly Smith, who wrote a book on sex workers rights, is of the view that prostitution is a symptom of capitalism.<sup>34</sup> Her point is that if we lived in a world where money had no value, then there would be no motive or reason for people to go into sex work.

#### **4.4. Justifications for Decriminalization of Sex Work**

As stated earlier, decriminalization of Sex Work would serve as a means of upholding Human Rights and dignity. A cornerstone of contemporary human rights is that all people are born free and equal in dignity and rights. There are several reasons why adults engage in Sex Work, whether it is their main source of livelihood, an ephemeral means of survival or an avenue to supplement their income. Whatever the reasons may be, sex workers should be treated with the degree of dignity and respect that you should be accorded to any human.

Secondly, Sex Work is not inherently violent; it is the criminalization of sex work that places sex workers at great risk. However, this point can be disputed on the basis that jurisdictions where Sex Work is not criminalized still experience levels of victimization and violence against sex workers. However, decriminalization still reduces this considerably.<sup>35</sup> The fear of arrest or abuse by law enforcement agents

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<sup>34</sup> J. Mac and M. Smith, "Sex is Not the Problem with Sex Work", available at <http://bostonreview.net/gender-sexuality/juno-mac-molly-smith-sex-not-problem-sex-work> (accessed 7 June 2020).

<sup>35</sup> B. McCarthy, C. Benoit, M. Jansson, and K. Kolar, "Regulating Sex Work: Heterogeneity in Legal Strategies, available at <https://www.annualreviews.org/doi/full/10.1146/annurev-lawsocsci-102811-173915> (accessed 7 June 2020).

poses a significant threat to the activities of sex workers. These factors, coupled with actual or perceived impunity for perpetrators of violence against sex workers places sex workers at heightened risk.<sup>36</sup> In jurisdictions that have decriminalized Sex Work such as New Zealand, sex workers have an increased ability to screen clients, work in safe areas with better access to security services and refer to law enforcement agencies in cases of violence.<sup>37</sup>

In Jurisdictions where Sex Work is criminalized, law enforcement agents, e.g. the Police, wield power over sex workers. Police threaten sex workers with arrest, jail terms, public humiliation and extortion. In Central and Eastern Europe, a high proportion of sex workers have reported suffering sexual assault by the Police, as high as 90% in Kyrgyzstan.<sup>38</sup> In Cambodia, a country located in South-east Asia, nearly half of all freelance sex workers have been beaten and nearly half have been raped by the Police and nearly three of every four brothel-based sex workers have been beaten and more than half have been raped by the Police.<sup>39</sup>

In all these instances, police abuse and victimize sex workers with so much impunity, partly because sex workers fear arrest or further abuse for reporting these crimes.

Another justification for the decriminalization of sex work is that decriminalization improves access to health services. It would serve as an avenue through which outreach workers can visit brothels and

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<sup>36</sup> Open Society Foundations, “10 reasons to decriminalize Sex Work”, available at [https://www.opensocietyfoundations.org/uploads/cc072baf-14b2-48f8-8c5f-30d7e9a6ec14/10-reasons-decriminalize-sex-work-20150410\\_0.pdf](https://www.opensocietyfoundations.org/uploads/cc072baf-14b2-48f8-8c5f-30d7e9a6ec14/10-reasons-decriminalize-sex-work-20150410_0.pdf), (accessed 27 February 2020).

<sup>37</sup> A. Lynzi, “Screening clients in a decriminalized street-based sex industry: Insights into the experiences of New Zealand Sex Workers”, (2014) *Australian and New Zealand Journal of Criminology*, pp. 1 – 16.

<sup>38</sup> Human Rights Watch, “Kyrgyzstan: Letter to Kenjebek Bokoyev, Chairman of Parliamentary Committee on Rule of Law, Order and Fighting Crime”, available at <https://www.hrw.org/news/2012/11/18/kyrgyzstan-letter-kenjebek-bokoyev-chairman-parliamentary-committee-rule-law-order> (accessed 7 June 2020).

<sup>39</sup> Global Network of Sex work Projects, “Violence and exposure to HIV among sex workers in Phnom Penh, Cambodia”, available at <https://www.nswp.org/resource/violence-and-exposure-hiv-among-sex-workers-phnom-penh-cambodia>, (accessed 27 February 2020).

provide health services. Decriminalization is the greatest financial support for sex worker health programs. Better financial support means greater capacity to conduct health outreach in the evenings because evenings are often the busiest times for sex workers.<sup>40</sup> Decriminalization has also been seen to increase condom access and rates of use by sex workers.

Decriminalization reduces the risk of HIV/AIDS and other sexually transmitted diseases/ infections. Research has proven that decriminalization of sex work could avert up to 46% of new HIV infections among female sex workers over the next decade.<sup>41</sup> By implication, the decriminalization of sex work would empower sex workers to insist on the use of condoms by clients and are also more likely to be able to access testing and treatment for HIV and other sexually transmitted infections.

For the purpose of this paper, the last justification is that decriminalization would enable effective responses to trafficking. Trafficking is a notorious and inhumane human rights violation which involves the coercion or deception of individuals for sexual exploitation or forced labour. Sex workers can be natural allies in the fight against trafficking and may also be well placed to refer trafficking victims to the appropriate quarters. A notable example was in India where through a sex worker run self-regulatory board, the Durbar Mahila Samanwaya Committee in Sonagachi, India was able to identify and provide support for women who had been trafficked for the purpose of sexual exploitation.<sup>42</sup> When absolved from the threat of criminal sanctions, sex workers can organize and collaborate with law enforcement agents.

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<sup>40</sup> C. Harcourt, et al, "The decriminalization of Sex work is associated with better coverage of health promotion programs for sex workers" (2010) *Australian and New Zealand Journal of Public Health*. Pp. 482 – 486.

<sup>41</sup> Avert, "Sex Workers, HIV and AIDS", available at <https://www.avert.org/professionals/hiv-social-issues/key-affected-populations/sex-workers> (accessed 7 June 2020).

<sup>42</sup> S. Jana, et al, "Combating human trafficking in the sex trade: can sex workers do it better?" (2014) 36(4) *Journal of Public Health*, pp. 622 – 628.

## 5.0. RECOMMENDATIONS/PROPOSAL FOR REGULATION

Just like in the Netherlands where there is the *Bill for Regulation and Suppression of Abuse in the Sex Industry*, Nigeria and other jurisdictions where sex workers still face victimization and stigmatization can pass such bill into law to protect sex workers. However, in Netherlands, the Bill is still under negotiation after passing the second chamber, but it has twice been rejected by the Senate. The most recently revised version was submitted in 2014. The Bill has currently not come into force but it is believed that it will in the near future. The Bill is aimed at stricter control of some sectors in the sex industry.

Around 2016, Amnesty International released a draft proposal/policy on protecting sex workers from human rights violations and abuses. It is advised that jurisdictions take a cue from some of these provisions in addressing the issue of regulation of Sex Work.

Some major points contained in the proposal would be discussed briefly here. The proposal does not support forced and underage involvement in sex trade.<sup>43</sup> Amnesty International supports criminal laws against trafficking, coercion of individuals into the sex trade and soliciting sex from minors.

Furthermore, the proposal does not support decriminalization of sex work, neither is it opposed to state regulation of adult, consensual sex work. The proposal further states that it should be guaranteed that all individuals who wish to partake in sex work should be able to do so in safe conditions, void of exploitation and should also be able to stop engaging in sex work when and if they choose to.<sup>44</sup>

The proposal explicitly supports labour rights and fair labour relationships. In the proposal, it is stated that countries must respect and protect the rights of sex workers to just and favourable working conditions, including fair wages, safe and healthy conditions of work

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<sup>43</sup> K. Koster, "8 things to know about Amnesty's draft proposal on Sex Work", available at [https://www.huffpost.com/entry/8-things-to-know-about-amnestys-draft-proposal-on-sex-work\\_b\\_7905776](https://www.huffpost.com/entry/8-things-to-know-about-amnestys-draft-proposal-on-sex-work_b_7905776), (accessed 28 February 2020).

<sup>44</sup> *Ibid.*

and limit on working hours. The proposal also calls for an end to the direct criminalization of Sex Work.

Further regulations include that governments should fully decriminalize sex work and ensure that sex workers do not face discrimination in law or practice. They should also strengthen services for sex workers and ensure that they have safe working conditions and access to public benefits and social safety nets. Moreover, any regulations and controls on sex workers and their activities need to be non-discriminatory and otherwise comply with international human rights law.

## **6.0. CONCLUSION**

For decades, moralists have argued that Sex Work downgrades and belittles the dignity of womanhood and negates the morality of the society generally. From the exposition thus made, it can be easily deduced that both men and women engage in sex work either professionally or temporarily, for economic and monetary reasons. Against this backdrop, it is not farfetched to believe that Sex Work may be against morality, but is certainly not against any form of written law. Sex work poses no danger to the State or to the person and it would be very parochial to push for the criminalization of Sex Work on the grounds of morality.

There are several reasons why people engage in Sex Work and these reasons should not be downplayed, instead they should be respected. Every individual has the freedom to contract, freedom of association and freedom of choice. This should then not be limited to the kind of job one can partake in, as far as it poses no threat to the safety and security of individuals and the State as a whole.

In view of the negative perception of Sex Work in Nigeria, this paper contends that it should not be criminalized; instead it should be decriminalized and then regulated. Therefore, law enforcement agents should cease from victimizing sex workers and recognize the rights of consenting adults to trade sexual relations as they wish as anything contrary to this position is tantamount to the denial of the fundamental human rights of, and discrimination against, women in a

patriarchy-structured Nigerian Society.<sup>45</sup> Little wonder Nenia Campbell said; “A woman is not a whore for wanting pleasure. If it were unnatural, we would not be born with such drives.”<sup>46</sup>

Furthermore, Alice Bag opined; “My sexuality is not an inferior trait that needs to be chaperoned by emotionalism or morality.”<sup>47</sup>

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<sup>45</sup> *Supra* n 22.

<sup>46</sup> Goodreads, available at <https://www.goodreads.com/quotes/1304491-a-woman-isn-t-a-whore-for-wanting-pleasure-if-it> (accessed 7 June 2020).

<sup>47</sup> Goodreads, “Alice Bag > Quotes”, available at [https://www.goodreads.com/author/quotes/4218589.Alice\\_Bag](https://www.goodreads.com/author/quotes/4218589.Alice_Bag) (accessed 7 June 2020).