

# The Policing Of Sex Work In South Africa:

## A Research Report On Human Rights Challenges Across Two South African Provinces

<b>Rationale:</b>	<ul style="list-style-type: none"><li>• Marginalised and stigmatised groups in society such as migrants, sex workers, homeless people and drug-users are at particular risk of human rights violations during policing and security operations.</li><li>• Sonke Gender Justice and SWEAT (Sex Worker Education &amp; Advocacy Taskforce) commissioned research into police practices following high volumes of sex worker complaints.</li></ul>
<b>Background to research project:</b>	<ul style="list-style-type: none"><li>• All forms of buying and selling of adult consensual sex are fully criminalised in South Africa under the Sex Offences Act 1957 and the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007.</li><li>• A 2013 study estimated there are between 132,000 and 182,000 female, male and transgender adult sex workers in South Africa.</li><li>• Sex work has been found to be an important livelihood strategy globally and in South Africa.</li></ul>
<b>Research Aims:</b>	<ul style="list-style-type: none"><li>• To document the contemporary policing experiences of sex workers from a grass roots perspective, to illustrate both the patterns and themes of the human rights violations being experienced; and the challenges for sex workers and their advocates in achieving effective strategic engagement with police to address the violations.</li><li>• To produce a body of research as a tool to trigger positive, solution focused dialogue between government, sex workers and advocacy organisations across human rights, legal, complaints and procedural domains.</li></ul>
<b>Research Methodology:</b>	<ul style="list-style-type: none"><li>• The research was conducted between February 2016 and May 2017 in Gauteng and Mpumalanga Provinces. 120 sex workers participated. 63 participants gave qualitative semi-structured interviews, and 57 completed a quantitative survey questionnaire.</li><li>• Participants were sourced through sex worker advocacy organisations and health clinics. They worked across a variety of locations including taverns, informal brothels and street based.</li><li>• The interview participants were purposively sampled as all participants had reported a negative policing experience. The survey participants were randomly sampled.</li></ul>
<b>Research Case Studies &amp; Timelines:</b>	<ul style="list-style-type: none"><li>• The Appendix contains two cases studies of research participants, one from Gauteng Province, and one from Mpumalanga Province. They detail multiple violent physical assaults including misuse of pepper spray, electric shocks, sexual assaults including rape, corruption through demands for cash and free sex, unlawful arrest and detention etc.</li><li>• Three timelines of “hot spots” - areas where multiple sex workers reported ongoing violations - were created from the participant interview transcripts, and the records of service providers. These timelines highlight the frequency and level of violence being experienced, and the difficulty for the sex work sector advocates in achieving positive outcomes with police.</li></ul>

## Research Findings:

### 1. The current criminal law place sex workers at a greater risk to violence and abuse

- The criminalisation of sex work increases sex worker vulnerability to violence from both police and members of the public.
- Criminalisation affects sex workers' ability to report crimes committed against them, regardless of whether the offender is a police officer, or a general member of the public. This allows violent and predatory criminal behaviours to go unreported and unpunished.
- Undocumented migrants are exposed to a higher risk of negative policing interactions as their legal status is often used as a tool to extort money or free sex.

### 2. Violation of sex workers' human rights is systemic, pervasive and entrenched

- The report details distressing accounts of violations by police, ranging from incidents of extreme violence and torture, to ongoing corruption and bribes, unlawful arrest and detention, to general harassment and intimidation.
- The data suggests a high concentration of incidents involving a limited number of police officers or a single policing location where the police officer and/or police station are involved in multiple events over an extended period of time.

### 3. Policing behaviours place public safety at risk

- Public health and safety risks are increased where offenders committing violent crimes are not held accountable. The report documents a case study where sex workers were repeatedly raped and throttled at knifepoint by the same alleged offender but felt unable to report incidents due to previous negative police interactions. The suspect was in police custody prior to the most recent incidents, but was released without charge, as the complainant was a sex worker and not taken seriously by the police.
- The rape of sex workers by members of the public and police increases the risk to HIV and other STIs.
- The police practice of burning and confiscating sex worker condoms supplied by health organisations facilitates the spread of HIV. It demonstrates one government agency working against the public health initiatives of another to manage the HIV pandemic.

### 4. Sex workers and their advocates experience significant difficulty engaging with police

- Civil society organisations report few successful complaints outcomes when utilising the existing policing complaints mechanisms.

## Research Recommendations:

### 1. Decriminalisation of Sex Work in South Africa

- The decriminalisation of sex work and civil/administrative offences of "loitering" and "public nuisance", could be the most effective public policy option to minimise the harms currently being experienced by sex workers under the existing fully criminalised system. It would remove the ability of police to target sex workers and their clients during policing operations.
- It would assist in creating safer working conditions through employment regulation, and enable sex workers and their clients to access effective HIV and health services without stigma.

### 2. Engagement between police, government, sex workers and sector advocates

- A key recommendation is the need for stronger engagement between SAPS, government, sex workers and sex worker organisations on the report findings, and to develop new, more effective ways of holding identified perpetrators accountable when violations are committed. This could involve a structural review of the current complaint mechanisms.
- Designing a detailed and rights-based National Policing of Sex Work Framework and Standard Operating Procedures. This could include annual stakeholder meetings with vulnerable groups to assess the operational realities and impacts of policing policies and practices.

### 3. Sex worker empowerment

- Currently structural challenges in the policing and criminal justice systems hinder effective engagement.
- The documentation of sex worker human rights violations should be prioritised and ongoing to ensure the challenges are continually brought to light to expose the extent and nature of them.

### 4. Capacitation of police

- There is a need for education and training on rights compliant policing practices, and reinforcement of the existing policing instructions, to ensure operational practices comply.
- Further research is recommended to better understand the police experience of engaging with sex workers and the challenges they face, in order to improve the relationships.