

The vicious circle of violence: Trans and gender-diverse people, migration, and sex work

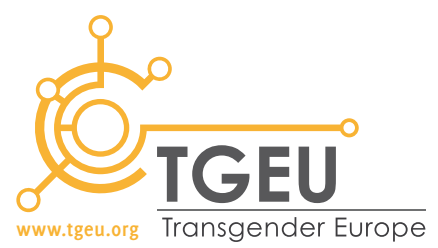
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www.transrespect.org

TVT Publication Series Vol.16 | October 2017



TRANSRESPECT VERSUS TRANSPHOBIA
W O R L D W I D E



**The vicious circle of violence:
Trans and gender-diverse people, migration, and sex work**

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TvT Publication Series Vol. 16
October 2017
Transgender Europe (TGEU)
www.tgeu.org

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Printer | Laserline Druckzentrum Berlin KG
Text revision | Naomhán O'Connor
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Since the Transrespect versus Transphobia Worldwide (TvT) research project began in the spring of 2009, more than 200 people from over 100 countries have helped in shaping and developing it into the base of knowledge you see today. You can find their names on the TvT website www.transrespect.org

We furthermore used the results of TGEU's violence monitoring project, ProTrans, carried out in partnership with 10 organisations. You can find their names on the TGEU ProTrans website www.tgeu.org/pro-trans

This report is funded by:

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Introduction

Transgender Europe (TGEU) has been focusing on research of trans and gender-diverse people's experiences of violence and crime since 2009. In cooperation with partner organisations, the Trans Murder Monitoring (TMM)¹ research project has been systematically monitoring, collecting, and analysing reports of murders of trans and gender-diverse people worldwide. A total of 2609 trans and gender-diverse people were reported killed in 71 countries between January 2008 and September 2017. As the murders of trans and gender-diverse people are not systematically recorded, the actual number is certainly much higher.

¹ See more about the TMM project on <http://transrespect.org/en/research/trans-murder-monitoring/>

In line with increasing community, civil society and policy attention to violence against trans people, TGEU has gradually been placing more emphasis on monitoring and reporting. Its ProTrans project was created as a collaborative endeavour with LGBT and trans groups and NGOs to monitor violence and human rights violations against trans people in Eastern Europe and Central Asia, where evidence had been scarce and anecdotal for a long time.² Our partner organisations additionally provided legal aid and community support to victims/survivors of violence, and advocated for legal and social changes to improve the situation of their communities.

² See more about the ProTrans project on <https://tgeu.org/pro-trans/>

Trans and gender-diverse people in all parts of the world are victims of horrifying hate violence, including extortion, physical and sexual assaults, and murder. These horrible forms of violence go frequently unreported and little attention is given to underlying causes, such as anti-trans, transmisogynist, racist, xenophobic, and anti-sex worker hatred and the precarious socio-economic conditions trans and gender-diverse people face in many contexts. All these factors expose trans and gender-diverse people, especially people of colour, ethnic minorities, migrants, and sex workers, to high degrees of violence.

The focus of this report is on trans and gender-diverse sex workers, who make up 62 per cent of the reported killing of trans and gender-diverse people whose profession is known.³ The high representation of trans and gender-diverse people in sex work around the world undeniably results from widespread structural, institutional, and interpersonal violence experienced by them from early in their life onwards with regards to accessing education and alternative employment. Consequently, many choose sex work from the very limited options available to them and, subsequently, are exposed to racial, gender-based, class-based, and anti-migrant exclusion and violence, as well as clandestine and dangerous working conditions as they are pushed into criminalised sex industries.

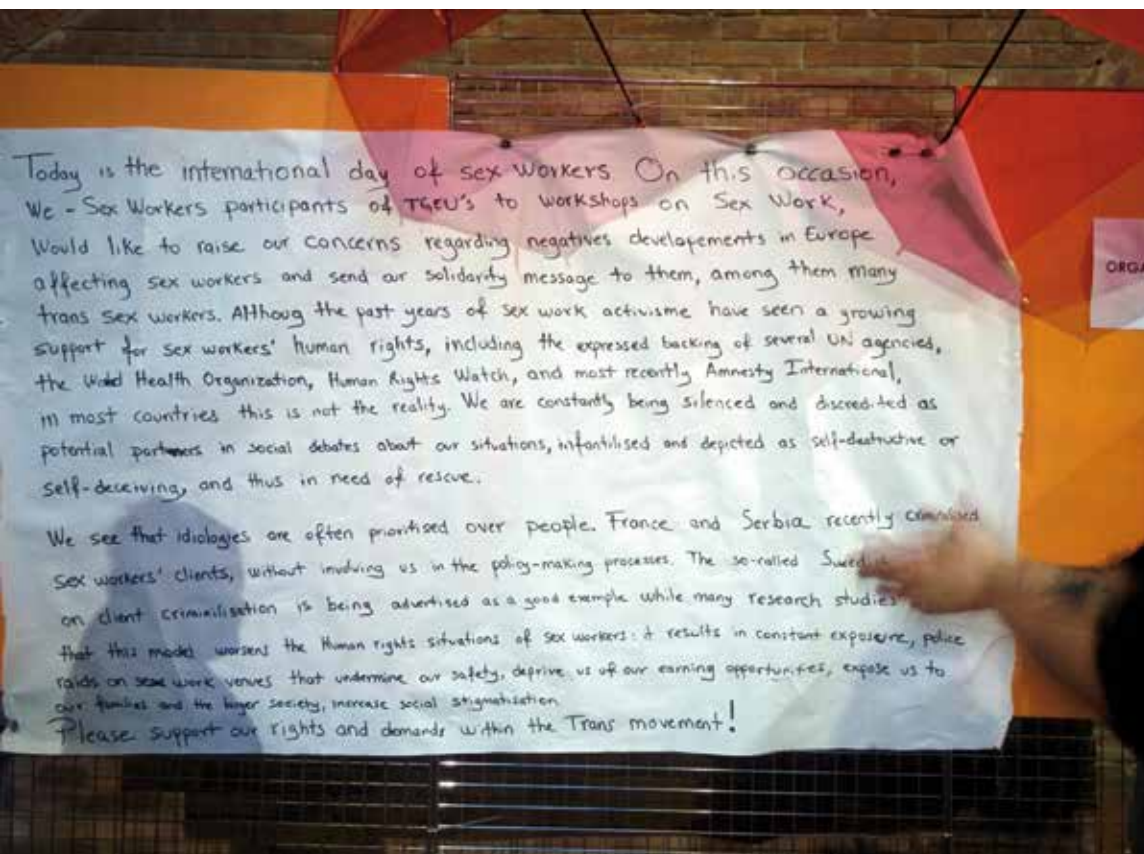
³ Trans Murder Monitoring 2017.

This report is an attempt to further contextualise the TMM data gathered since 2008 from a systemic violence perspective, utilising much needed community-based violence documentation and research carried out in recent years in local contexts and on an international level. We not only address anti-trans and sex worker bias and hatred as the main causes for high levels of violence against trans sex workers but also attempt to highlight current trends contributing to the marginalisation and exclusion of trans and sex worker communities, such as the criminalisation of migration and sex work, the use of punitive approaches to 'tackling' poverty, homelessness, and drug use, increasingly precarious living and working conditions, and growing racial, gender, and economic disparities all over the world.

In the **first chapter**, we address how the lack of family support and significant challenges in accessing employment, education, and housing contribute to trans and gender-diverse people choosing sex work as a mean of meeting immediate needs, such as shelter or food, or of having more opportunities to achieve financial security on the longer term. The **second chapter** describes some of the different criminalising laws that impact trans and gender-diverse people, especially those who are sex workers or who are perceived as such. The **third chapter** provides a glimpse into the situation of abuse and violence faced by trans and gender-diverse migrants, with particular emphasis on European legal frameworks and social attitudes. The **forth chapter** deals with the discrimination and violence in the healthcare system and medical settings, and the specific manifestations of these for trans sex workers. In the **fifth chapter** we focus on institutional and interpersonal violence and their interconnectedness, mainly perpetrated by law enforcement bodies. Finally, we provide key **recommendations** to decision and policy makers, following global and regional standards underpinning state obligations to protect trans people and trans sex workers from violence.

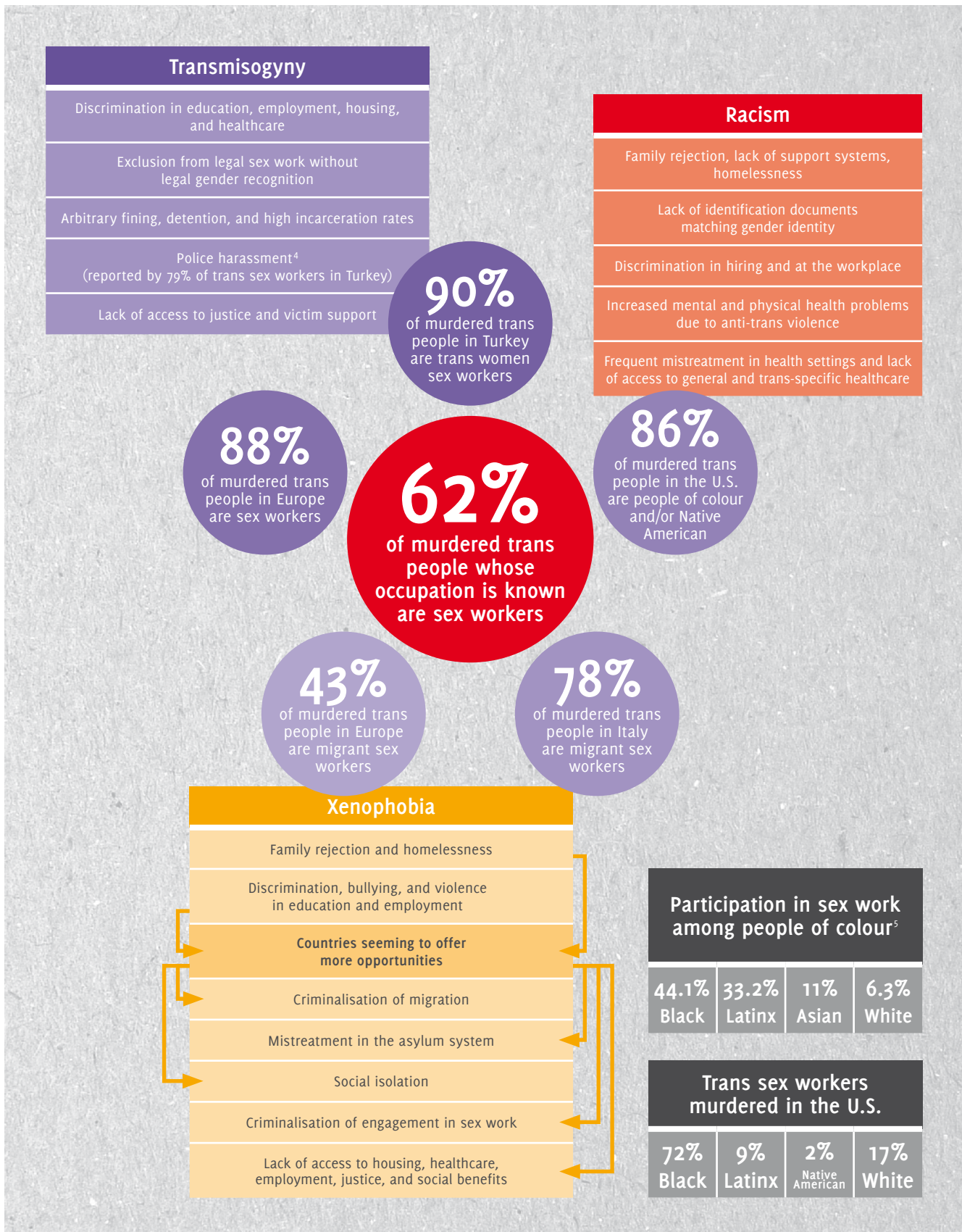
We acknowledge that our analysis is far from comprehensive, using mainly available evidence from online and offline English language sources and our partner organisations' accumulated knowledge and research. Therefore, we hope that community groups, scholars, and social justice activists will complement, challenge, and build upon the findings presented here.

6th European Transgender Council, Bologna, Italy, 2016 – workshop on sex workers' inclusion in the trans movement



6th European Transgender Council, Bologna, Italy, 2016 – Sex workers' rights statement

Trans sex workers: at the intersection of oppression, criminalisation, and gender-based violence



⁴ Balzer, Carsten, Jan Simon Hutta (eds.). (2015). Transrespect versus Transphobia: The Experiences of Trans and Gender-diverse People in Colombia, India, the Philippines, Serbia, Thailand, Tonga, Turkey and Venezuela. Transgender Europe. Available at: <http://transrespect.org/en/tvt-publication-series> (last accessed on 5 August 2017).

⁵ Fitzgerald, Erin, Sarah Elspeth Patterson, and Darby Hickey (2015). Meaningful Work. Transgender Experiences in the Sex Trade. Available at: http://www.transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf (last accessed on 10 August 2017).

I. Social exclusion – A pathway into, and a reality in, sex work

Sex work is a reality for many trans and gender-diverse people all over the world, and their reasons for engaging in sex work are just as manifold as among cis sex workers. For many trans sex workers, choosing sex work is a reflection of limited livelihood options and limited economic resources. For example, it may be one of a small number of sources of earnings available for irregular migrants escaping poverty and transphobia in their countries of origin, who are then denied access to legal employment and, thus, must rely on informal economies of work in the countries of destination along their migratory routes.⁶ Other individuals may turn to sex work as a means to address immediate needs due to poverty, lack of shelter, and food insecurity in order to survive. Many are systematically excluded from the formal economy, as their identification documents do not reflect their gender, gender identity, and/or gender expression, and they face hostile transphobic environments at workplaces. According to TGEU's Healthcare Survey⁷ carried out in 5 countries in 2017 (Georgia, Poland, Serbia, Spain, and Sweden), close to 70 per cent of those who engaged in sex work in the 12 months prior to the survey decided to do so primarily to earn a living, while close to 40 per cent stated that their main reason was that they lacked other opportunities.⁸

While trans sex workers are often portrayed as the manifestation of trans poverty, exclusion, and suffering,⁹ for centuries, resilient trans sex workers have capitalised on “glamour, beauty, and femininity” as tools to achieve “social legibility, intimate power, and, potentially, physical survival in a hostile environment.”¹⁰ Sex work is often seen as an opportunity to generate income without dealing with the social transphobia that can occur in other areas of employment. Furthermore, trans people often find working among other trans people to be a source of support, and sex work can often provide a sense of community that may not exist in other employment settings where trans people are viewed as outcasts.¹¹ Sex work can also fulfil personal development goals, as it offers networking and mentorship from other, often senior, trans people and serves as access to gender affirmation in transphobic societies.¹² The latter is echoed by TGEU's Healthcare Survey, in which 22.6 per cent of trans sex workers found acceptance for who they are in sex work.¹³

The overrepresentation of trans people among sex workers is confirmed by TvT evidence: 99 per cent of respondents in Colombia, 76 per cent in Turkey, 68 per cent in Venezuela, 47 per cent in the Philippines, and 14 per cent in Serbia stated that they earn their living through sex work.¹⁴ UNAIDS also estimates that the proportion of those who sell sex in trans communities is as high as 90 per cent in India, 84 per cent in Malaysia, 81 per cent in Indonesia, 47 per cent in El Salvador, and 36 per cent in Cambodia.¹⁵

The large representation of trans people in sex work around the world is undeniably a result of widespread structural, institutional, and interpersonal violence experienced by trans people from their early lives with regards to receiving support from their families and their immediate environments and accessing education and alternative employment.

- 6 International Committee on the Rights of Sex Workers in Europe (ICRSE). (2016). *Surveilled, Exploited, Deported: Rights Violations against Migrant Sex Workers in Europe and Central Asia*. Available at: <http://www.sexworkereurope.org/news/general-news/resource-surveilled-exploited-deported-rights-violations-against-migrant-sex> (last accessed on 30 September 2017).
- 7 Transgender Europe (2017). *Overdiagnosed but Underserved*. Available at: <https://tgeu.org/healthcare> (last accessed on 11 October 2017).
- 8 Transgender Europe (2017). 22.
- 9 Nihils, Rev, Geist, Fiona Maeve (2017). *Staging the Trans Sex Worker*. *TSQ: Transgender Studies Quarterly* 4, no. 1 (February 1, 2017), 112-127.
- 10 Ochoa, Marcia (2014). *Queen for a Day: Transformistas, Beauty Queens, and the Performance of Femininity in Venezuela*. Duke University Press.
- 11 Global Network of Sex Work Projects (NSWP) (2014). *The Needs and Rights of Trans Sex Workers*. Available at: <http://www.nswp.org/resource/briefing-paper-the-needs-and-rights-trans-sex-workers> (last accessed on 9 September 2017).
- 12 Wyland, Emily (2016). *You Better Work: The Decriminalization of Sex Work as a Transgender Woman of Color Rights Issue*. Dean James E. McLeod Freshman Writing Prize. Paper 3. Available at: <http://openscholarship.wustl.edu/mcleod/3> (last accessed on 11 October 2017).
- 13 Transgender Europe (2017). 22.
- 14 Balzer, Carsten, and Jan Simon Hutta (eds.). (2015).
- 15 UNAIDS (2014). *The Gap Report*. Available at: http://www.unaids.org/en/resources/documents/2014/20140716_UNAIDS_gap_report (last accessed on 1 September 2017).

St. James Infirmary banner on the International Day Against Violence Against Sex Workers 2010 in San Francisco, U.S.

Photo credit: Steve Rhodes



16 Grant, Jamie M., Lisa A. Mottet, and Justin Tanis (2011). *Injustice at Every Turn. A Report of the National Transgender Discrimination Survey*. Available at: http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf (last accessed on 12 September 2017).

17 James, Sandy E., Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma'ayan Anafi (2016). *The Report of the 2015 U.S. Transgender Survey*. Available at: <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF> (last accessed on 11 October 2017).

18 Ibid.

19 Borgogno IGU. *La Transfobia en América Latina y el Caribe: un estudio en el marco de REDLACTRANS*. Buenos Aires: REDLACTRANS; 2013. Available at: <http://redlactrans.org.ar/site/wp-content/uploads/2013/05/La-Transfobia-en-América-Latina-y-el-Caribe.pdf> (last accessed on 4 July 2014).

20 Winter S. Lost in translation: transpeople, transprejudice and pathology in Asia. *Int J Hum Rights*. 2009; 13(2): 365.

21 Balzer, Carsten, and Jan Simon Hutta (eds.). (2015).

22 Haas, Ann P., Phillip L. Rodgers, and Jody L. Herman (2015). *Suicide Attempts among Transgender and Gender Non-Conforming Adults*. Available at: <https://williamsinstitute.law.ucla.edu/wp-content/uploads/AFSP-Williams-Suicide-Report-Final.pdf> (last accessed on 5 May 2017).

23 Clements-Nolle, Kristen, Rani Marx, and Mitchell Katz (2006). The Influence of Gender-Based Discrimination and Victimization. *Journal of Homosexuality*, Vol. 51, Iss. 3.

24 Virupaksha, H. G., Daliboyina Muralidhar, and Jayashree Ramakrishna (2016). *Suicide and Suicidal Behavior among Transgender Persons*. *Indian Journal of Psychological Medicine*, 38(6): 505-509.

25 Rosenstreich, Gabi (2013). *LGBTI People: Mental Health and Suicide*. Revised 2nd Edition. Available at: <https://www.beyondblue.org.au/docs/default-source/default-document-library/bwo258-lgbt-mental-health-and-suicide-2013-2nd-edition.pdf?sfvrsn=2> (last accessed on 24 May 2017).

While academic evidence on the interconnectedness of poverty, structural inequalities, racial/gender discrimination, and trans people's engagement in sex work is scarce and focuses mainly on trans-feminine perspectives and life experiences, there have been recent attempts to contextualise social exclusion and sex work, mainly in the United States. One example is the survey conducted in 2011 by U.S.-based organisations National Center for Transgender Equality and National Gay and Lesbian Task Force,¹⁶ which clearly highlighted racial disparities among trans people who sell sex: the results show that 53 per cent of Black, 34 per cent of Latinx, and 16 per cent of Asian trans people have made a living in underground economies, including sex work, compared to 11 per cent of white trans people. Furthermore, the 2015 U.S. Transgender Survey¹⁷ found that trans-feminine respondents were almost twice as likely to participate in sex work, while also noting that trans-masculine respondents made up 26.4 per cent of participants in the sex industry.

Respondents of the 2015 U.S. Transgender Survey also reported high rates of engagement in the underground economy, including sex work, drug sales, and other work that is currently criminalised. One in five trans people have participated in the underground economy for economic reasons at some point in their lives – including 12 per cent who have done sex work in exchange for income – and 9 per cent did so in the past year, with higher rates among trans women of colour.

Family rejection is a significant factor contributing to trans people's experience of homelessness and seeking immediate remuneration strategies to survive. According to the 2015 survey¹⁸, those who were rejected by their family were nearly twice as likely to have experienced homelessness (40 per cent) than those who were not rejected, and almost twice as likely to have engaged in sex work (16 per cent) than those who had more accepting and respectful family environments.

Family acceptance plays a crucial role for young trans people, and the lack thereof often leads to isolation, vulnerability to homelessness and economic instability, as family and educational institutions are the main sources of housing and economic resources. Global estimates signal high rates of abuse and likeliness of being kicked out of their family homes among young trans people due to their gender identity and/or expression. For instance, in Latin America 44-70% of trans women and girls have felt the need to leave their home or were thrown out of their homes.¹⁹ According to a study from Thailand and the Philippines, 40 per cent of Filipinx trans women and 21% per cent of Thai trans women reported paternal rejection when transitioning.²⁰

Schools are often the first institutional settings where trans children and adolescents have their identities disregarded, policed, and punished. Educational experiences of trans people reveal worrisome trends across the world: schools being sites of abuse, institutional exclusion, and peer bullying. A survey carried out in the framework of the Transrespect versus Transphobia Worldwide (TVT) project in multiple countries shows that a third to half of respondents found it hard to change classes or schools due to negative experiences regarding their gender identity. In Venezuela, Serbia, and Colombia, a third or more of the respondents experience disrespect from teachers due to gender identity.²¹

The figures regarding being bullied by other students due to one's gender identity are extremely worrying as well: in Colombia, for instance, 92 per cent experienced bullying at school, followed by Venezuela (78 per cent), the Philippines (72 per cent), Turkey (61 per cent), and Serbia (50 per cent). In India (West Bengal) and Colombia, almost half of the respondents stated that they experienced sexual violence from other students due to their gender identity, followed by the Philippines, Venezuela, and Thailand, where up to a third of all respondents did so.

The emotional impact of school violence and family rejection on trans youth is devastating: according to a U.S. survey almost 50 per cent of trans youth have considered taking their own lives.²² In another research project, carried out in San Francisco, nearly half of the young people in the sample had attempted suicide, correlating with gender non-conformity, interpersonal conflict regarding gender identity, recent disclosure of being trans, and lack of support from family members.²³ Similar rates are reported in India,²⁴ Australia,²⁵

and the United Kingdom.²⁶ TGEU's Healthcare Survey also found high suicide rates across various countries, from 23 per cent in Serbia to 50 per cent in Georgia.²⁷

Employment discrimination is, to a great extent, the result of exclusion and rejection of trans young people in education. Rejection against trans people is widespread, and has been unequivocally confirmed by research results. According to a U.K. survey, 36 per cent of trans workers have quit their job and as much as 60 per cent have experienced some form of transphobic mistreatment in the workplace.²⁸ Many trans employees are subjected to verbal abuse and even physical violence perpetrated by other employees, as well as by customers, clients, and/or suppliers, while on the job. They also face staggering rates of discrimination in recruitment, promotion, remuneration, and benefits.²⁹

The TvT survey results echo results from other surveys that demonstrate that trans people are systematically refused employment in many contexts. In Colombia, for instance, 87 per cent of respondents stated that they have been refused employment often or once or twice because of their gender identity; in Turkey, it's 52 per cent.³⁰ As sex work is a typically informal job economy, with low entry requirements in terms of capital and professional qualifications, and skills needed for the job are often acquired outside of formal education, many trans people may choose it as a survival or income-generating strategy.³¹

Trans sex workers face intersectional stigma and discrimination because of their trans and sex worker status, with other influencing factors including racism, misogyny, ableism, classism, and xenophobia. Many of them are impacted by housing discrimination, over-policing, and lack of access to justice, health services, and social benefits, as sex work is not recognised as work in their respective countries. The following chapters will illustrate different aspects of marginalisation and their interconnectedness across various contexts.

26 Nodin, Nuno, Elizabeth Peel, Ian Rivers, and Allan Tyler (2015). The RaRE Research Report: LGB & T Mental Health – Risk and Resilience Explored. Available at: http://www.queerfutures.co.uk/wp-content/uploads/2015/04/RARE_Research_Report_PACE_2015.pdf (last accessed on 25 September 2017).

27 Transgender Europe (2017).

28 TotalJobs (2016). TotalJobs trans employee survey report 2016. Available at: <https://www.totaljobs.com/insidejob/trans-employee-survey-report-2016> (last accessed on 20 September 2017).

29 Whittle, Stephen. (2014). Employment Discrimination and Trans People. Available at: <https://www.gires.org.uk/employment-discrimination-and-trans-people> (last accessed on 11 October 2017).

30 Balzer, Carsten, and Jan Simon Hutta (eds.). (2015).

31 International Committee on the Rights of Sex Workers in Europe (ICRSE). (2017). Understanding sex work: a brief guide for labour rights activists. Available at: <http://www.sexworkurope.org/news/general-news/icrse-launches-new-resource-understanding-sex-work-work-brief-guide-labour-rights> (last accessed on 11 September 2017).



Red Umbrella Project, Human Trafficking Intervention Court Rally, August 2015

Photo credit: Red Umbrella Project

II. The many faces of criminalisation

Globally, trans and gender-diverse people experience harsh enforcement of normative gender expressions through state control, policing and criminalising laws in relation to privacy, sexuality, gender identity and/or expression. Furthermore, the overwhelming majority of states criminalise or penalise the selling and buying of sexual services and/or the organisation of consensual adult sex work.³² Laws that prohibit consenting adults to buy and/or sell sex and legal provisions that criminalise same-sex relations, and non-normative gender identities and/or expressions negatively impact trans sex workers' wellbeing and access to services, exposing them to police violence, incarceration, and dangerous working conditions, that lead to negative health outcomes. Prostitution laws also deeply affect many non-sex worker trans people who are perceived, through hypersexualised prejudices, as sex workers.

³² New Zealand is, so far, the only country globally where sex work is fully decriminalised. In 2003, a regulatory framework for the sex industry effectively decriminalised brothels, escort services and private services, and removed sex work from criminal legal frameworks by recognising sex work as a legitimate occupation, subject to industrial regulations. See more: <http://www.nswp.org/timeline/event/decriminalisation-sex-work-new-zealand>



Efe Ball, a trans sex worker in Italy protesting against fines from the tax authority. She received a payment request of € 700,000 despite the fact that she's not considered a worker.

Photo credit: Guiseppe Cacace for AFP/Getty

Police surveillance and control is one of the harshest consequences of legal oppression and criminalisation. Trans women and trans-feminine people are often perceived as sex workers by police, through racialised and gendered stereotypes that frame them as hypersexual and sexually available. Law enforcement officers' internalisation and perpetuation of these stereotypes, combined with the high degree of discretion afforded by vague "quality of life", "nuisance", "public morality," and prostitution regulations, results in police profiling of trans women, more often trans women of colour and/or migrants, as sex workers, with selective targeting for harassment, detention, and arrest.³³ Trans sex workers and many trans people alike are thus disproportionately harmed by sex work legislation for various reasons. Trans sex workers often tend to work on the streets and in disadvantaged socio-economic areas, and face homelessness, intensive police profiling, and discrimination by state services. Due to poverty and economic pressure to meet immediate needs or to finance gender affirming surgeries and/or medical care, they may also be more likely to have unprotected sex, contributing to high rates of HIV contraction.³⁴

³³ INCITE! (2014). Policing Sex Work. Available at: <http://www.incite-national.org/page/policing-sex-work> (last accessed on 11 September 2017).

³⁴ Wyland, Emily (2016).

Even in countries where sex work is legal and/or regulated, trans sex workers face exclusion in certain settings and experience higher rates of police harassment and violence from various criminal parties. In Greece and Turkey, for instance, laws only allow sex workers to operate exclusively in managed indoor venues. Both countries have also introduced particularly discriminatory measures that only allow unmarried cis-female sex workers with citizenship status to work legally. This forces all cis male and trans sex workers, as well as female sex workers who are either migrants or in certified marital relationships, to work illegally, which results in being subjected to police surveillance, fines, and prosecution, as well as violence, harassment, and abuse.³⁵

³⁵ International Committee on the Rights of Sex Workers in Europe (ICRSE) (2015). Nothing about us without us! Ten years of sex workers' rights advocacy and activism in Europe. Available at: http://www.sexworkeurope.org/sites/default/files/userfiles/files/ICRSE_10years%20report_April2016_photo_%282%29.pdf (last accessed on 11 October 2017).

Case study: criminalisation of clients in France

The French Parliament passed a bill on 6th of April 2016 that makes it illegal to pay for sex in France. Selling sex remains legal. Under the new law, those who pay for sex will face fines of up to 1,500 Euros for the first offence, and up to 3,750 Euros for subsequent offences. The ideology behind the law is that people selling sex are all victims of patriarchy and male violence, and are in need of rescue, an idea that was ingrained in the so-called Swedish model, the first client criminalisation bill adopted in Sweden in 1999.

Since the new law entered into force, many sex workers have lost income sources and moved to more remote and dangerous areas to work because that is where their clients feel more secure and able to avoid police detection. Trans sex workers, who are often undocumented migrants, are among the most affected by the new law because they also experience high levels of social exclusion, economic instability, and lack of recourse to justice.

According to Giovanna Rincon, the head of Acceptess Transgenres and a migrant trans sex worker herself, “the most vulnerable community is paying [for] the consequences of this moralistic law. It is a social and human catastrophe for trans sex workers. They are absolutely lost psychologically, there are many HIV-positive trans sex workers. Due to the fact that now they have to move from city to city, they interrupt their ARV (anti-retroviral) treatments.”³⁶

All these forms of legal oppression against sex workers add to the already existing and enforced criminalisation of gender identity, gender expression, and/or sexual orientation in many countries. Criminalising laws typically forbid either certain types of sexual activity or any intimacy between persons perceived to be of the same sex. In some instances, the wording of these laws is vague, referring, for example, to “debauchery,” or to crimes against “morality” or “the order of nature.” Some states specifically criminalise same-sex conduct between men, while others outlaw both male and female same-sex conduct. As trans people are often associated with and read as the sex/gender they were assigned at birth, they are impacted by arrest, prosecution, imprisonment, and even death penalty in the same ways as cis lesbian, gay, and bisexual individuals. Criminalisation also affects the whole community in any given context, as it pushes lesbian, gay, bisexual, and trans people to the margins of society and into social isolation, prevents them from organising and advocating for legal and social changes, and hinders their access to employment, housing, justice, victim support, and healthcare, including HIV prevention and treatment.

In most cases, these laws are a legacy of colonial rule: imposed upon the countries during the 19th century colonial powers.³⁷ From Africa to Southeast Asia, they derive from a single law on homosexual conduct that British colonial rulers imposed on India in 1860. The Indian Penal Code, which entered into force in 1860, punished “carnal intercourse against the order of nature” with sentences as harsh as life imprisonment. This legal provision spread across the British Empire, with the aim of regulating sexuality. During the colonial period, the British also introduced various pieces of legislation in India that affected trans and gender-diverse people, including anti-castration laws that criminalised the body-modifying rituals of *hijras* and *aravani*.³⁸

Today, various countries have laws in place that criminalise so-called cross-dressing and homosexuality. In Sudan, for example, laws prohibiting indecent or immoral dress have been used to punish people perceived as men who wear “women’s clothes” as well as people perceived as women who wear trousers and male models who wear make-up.³⁹ In Nigeria, laws on indecent dress have been used to fine and imprison cross-dressing people perceived as men.⁴⁰ In Guyana, it is a crime under section 153 of the Summary Jurisdiction (Offences) Act when “a man, in any public way or public place, for any improper purpose, appears in female attire, or being a woman, in any public way or public place, for any improper purpose, appears in male attire”.⁴¹ In Brunei, Section 197 of the Syariah Penal Code⁴² criminalises indecent behaviour, which can be interpreted broadly to include trans people. Section 198 of the same code criminalises “man posing as a woman” and vice-versa.

In some countries, public officials further harass trans people – mainly but not exclusively trans sex workers – in routine ways through laws that do not criminalise



Acceptess Transgenres migrant trans activists protesting against the criminalisation of clients in Paris, France in 2016.

Photo credit: EPA/Ian Langsdon

36 NSWP (2016). Transgender Sex Worker Murdered in Nantes, France. Available at: <http://www.nswp.org/news/transgender-sex-worker-murdered-nantes-france> (last accessed on 18 October 2017).

37 Gupta, Alok (2008). This Alien Legacy. The Origins of ‘Sodomy’ Laws in British Colonialism. Human Rights Watch. Available at: <http://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism> (last accessed on 12 September 2017).

38 Balzer, Carsten, and Jan Simon Hutta (2012). Transrespect versus Transphobia Worldwide – A Comparative Review of the Human Rights Situation of Gender-variant/Trans People. Transgender Europe. 79.

39 BBC News (4 August 2010). Cross-dressing men flogged in Sudan for being ‘womanly.’ Available at: <http://www.bbc.com/news/world-africa-10871494>; BBC News (8 December 2010). Sudan male models fined for make-up ‘indecent.’ Available at: <http://www.bbc.com/news/world-africa-11951200>; Amnesty International (3 February 2010). Sudan: Abolish the Flogging of Women. Available at: https://amnesty.dk/media/1691/sudan_law91.pdf (last accessed on 11 October 2017).

40 BBC News (15 February 2005). Nigeria transvestite handed fine. Available at: <http://news.bbc.co.uk/2/hi/africa/4266773.stm>; BBC News (4 March 2008). Cross-dresser jailed in Nigeria. Available at: <http://news.bbc.co.uk/2/hi/africa/7276715.stm>; BBC News (15 February 2008). ‘Cross-dressers’ in Nigeria court. Available at: <http://news.bbc.co.uk/2/hi/africa/7246935.stm> (last accessed on 11 October 2017).

41 Case pending in the High Court of Guyana. SASOD, Marking World Social Justice Day, Transgender citizens, supported by SASOD, move to the courts to challenge Guyana’s law against “cross-dressing”, (Press Release 22 February 2010).

42 Brunei Syariah Penal Code Order (2013) Available at: http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/syariah%20penal%20code%20order2013.pdf

“transgenderism” or “cross-dressing”. These laws include anti-nuisance, morality, loitering, or traffic laws. These policies are common practices in many countries in Africa, Asia, Central and South America, and Turkey. One such example is Chile, where Article 373 of the Penal Code⁴³ punishes faults to “morality and good customs”, and has been used to detain and imprison trans women. In Singapore, Section 20 of the Miscellaneous Offences Act prohibits indecent behaviour in public spaces, and could be interpreted broadly enough to capture so-called cross-dressing.⁴⁴

The huge changes in colonial states, which took place over the course of the 19th century, also altered the lives of sex workers. Gender and sexual roles were re-defined; for instance, accepted practices like *nautch*, temple dancing, and concubinage were described simply as prostitution and regarded as immoral and barbarian.⁴⁵ With the Cantonment Act of 1864, the British aimed to regulate prostitution, considering it an evil phenomenon which was necessary to control: the act provided for about twelve to fifteen Indian women for each regiment of British soldiers, which contained around a thousand people. They worked in brothels called *chaklas* and were often required to undergo medical evaluations once a week in order to examine them for traces of venereal diseases.

Criminalising laws, however, do not only occur in countries with a (British) colonial past. Recently, the idea of introducing so called anti-propaganda laws is spreading across countries once part of the Soviet Union, for instance in Kyrgyzstan or Moldova. In 2013, Russia adopted the law on “propaganda of homosexuality among minors,” which also covers “propaganda of transgenderism.” The law uses the term “propaganda,” which is vague enough to create space for individual interpretation of what actions fall under LGBTQI “propaganda,” thus leaving interpretation to individual courts taking up particular cases. Under the framework of the law, any work related to informing minors about the issues of sexual orientation, gender identity, and/or gender expression might be considered propaganda. As a result, this law limits the access of teenagers to reliable information about issues related to gender identity and/or expression, and limits how LGBTQI human rights NGOs and individual trans activists can tackle the violence and discrimination faced by trans teenagers. It also increases the stigma of LGBTQI communities and informally encourages discrimination and violence against them. For example, homophobic and transphobic groups such as “Occupy Paedophilia” have been actively disguising their violent attacks against LGBTQI communities as acts of fighting paedophilia and saving children.⁴⁶

Since the 1980s, an increasing number of countries around the world have also applied existing criminal laws and/or created HIV-specific criminal statutes to prosecute people living with HIV who have, or are believed to have, put others at risk of acquiring HIV. By 2015, 72 countries had laws that specifically allowed for HIV criminalisation, an increase from 61 in 2014. Prosecutions for HIV non-disclosure, potential or perceived exposure, and/or unintentional transmission had been reported in 61 countries, an increase from at least 49 in 2014.⁴⁷ These laws are particularly relevant to trans people, who are disproportionately affected by HIV and AIDS. However, there is no comprehensive research investigating the number of HIV-positive trans people who are affected by HIV criminalisation. Criminalisation of drug use has a negative effect on HIV prevention and treatment as well, which will be addressed on page 16.

43 Chilean Penal Code (1874). Available at: <https://www.leychile.cl/Navegar?idNorma=1984>

44 Singaporean Miscellaneous Offences (Public Order and Nuisance) Act (1906). Available at: <http://statutes.agc.gov.sg/aol/download/o/o/pdf/binaryFile/pdfFile.pdf?Compld:15d3e182-a1be-4590-b9ab-f5254ba0f967>

45 Wald, Erica (2004). Defining Prostitution and Redefining Women's Roles: The Colonial State and Society in Early 19th Century India. *History Compass*, 7/6, 1470- 1483.

46 Transgender Europe (2016). For the record. Documenting violence against trans people. Experiences from Armenia, Georgia, Germany, Moldova, Russia, and Ukraine. Available at: https://tgeu.org/wp-content/uploads/2017/04/Fortherecord_FINAL.pdf (last accessed 11 October 2017).

47 Bernard, Edwin J., Sally Cameron, and Julian Hows (2016). Advancing HIV Justice 2: Building momentum in global advocacy against HIV criminalisation. HIV Justice Network and GNP+. Available at: http://www.hivjustice.net/wp-content/uploads/2016/05/AHJ2.final2_10May2016.pdf (last accessed on 11 October 2017).

III. Trans migration and sex work: the European case

The history of the European continent is interwoven with internal migration flows as a result of shifts in economic and geopolitical power between Europe's nation states. However, large-scale immigration into Europe is a relatively recent phenomenon. Larger population movements have mainly occurred in connection with imperial powers losing their colonies in the 1950s, the fall of the Iron Curtain, and the 1990s economic boom in Western and Southern European countries.⁴⁸ Sex workers' mobility and migration follow similar patterns to those in other economies. From the late 1970s, within the sex industry in Europe, migration from outside the continent has involved mostly women from South Asian, Latin American and African countries.⁴⁹

As addressed in the previous chapters, trans people often experience multiple forms of social exclusion and violence on a daily basis. In many parts of the world, they are stripped of legal protections and even criminalised or persecuted based on their gender identity and/or expression. Faced with rejection from their families, discrimination in healthcare, education, and employment, homelessness, forced sterilisation or castration, 'corrective rape', arbitrary detention, domestic and police violence, and high rates of murder, many trans people leave their countries of origin in search of a safer life and new opportunities elsewhere. In this chapter we focus on Europe, as the Trans Murder Monitoring (TMM) project has the highest number of recorded murder cases of migrant trans sex workers from this region.

Although the above-mentioned human rights violations should allow trans people to seek asylum and apply for refugee status in European countries and elsewhere, they face rigid policing by state actors and immigration agencies upon their arrival in new countries.⁵⁰ While increasing austerity measures, armed conflicts, severe human rights abuses, global warming, and natural disasters force ever more people to flee their countries of origin and search for shelter in Europe, this region becomes increasingly less protective and welcoming. Many countries in the European Union currently refuse to provide those seeking asylum with comprehensive assistance or even entry to the region, and numerous laws implemented across European countries subject asylum seekers to various repressive practices.

There are no official statistics on the number of asylum claims based on gender identity. Stigma, shame, and fear contribute to trans people often not informing asylum officials of their gender identity and/or expression at the time of the interview, and, overall, the levels of understanding on trans-related issues within the system are very low. At the same time, most EU Member States do not have specific national guidelines for interviewing LGBTI persons,⁵¹ and many are "vague, open to misinterpretation, and often based on normative assumptions."⁵²

After reaching Europe, asylum seekers are often treated like criminals and held in detention centres for the period of the asylum process, which can take years. Trans asylum seekers continue to be at risk and are, "particularly vulnerable to physical, sexual, and emotional abuse within asylum detention centres and community-based single sex shared accommodation" and, "at a high risk of self-harm or suicide" during the asylum process.⁵³ Furthermore, in many European countries, national laws directly prohibit asylum seekers from accessing legal employment or engaging in any economic activity, and those with refugee status face lengthy administrative processes and lack of institutional support for labour market inclusion.⁵⁴ With little or no provision of financial assistance to cover subsistence costs, and faced with no other alternatives for feeding themselves and their families, refugees and asylum seekers find themselves forced to engage in low-wage, precarious and often exploitative labour arrangements outside of the formal economy. For some refugees and asylum seekers, sex work can be one of very few options available to them for earning a living.

Xenophobic political and public discourses have been playing an important role in the production and reproduction of hostile environments that position migrants as criminals and threats to the region. Regulating migration has become a key priority for European countries, strongly affecting, "crime control practices and penal cultures, as well as on the development of novel forms of punishment and social control."⁵⁵ According to a study supported by the European Research Council, "detention facilities for migrants, for example, often bear resemblance to prisons, and so do the daily routines for their inmates."⁵⁶

Similar situations are mirrored across the world in destinations with high numbers of

48 De la Rica, Sara, Albrecht Glitz, and Francesc Ortega (2013). *Immigration in Europe: Trends, Policies and Empirical Evidence*. IZA Discussion Paper No. 7778. Available at: <http://ftp.iza.org/dp7778.pdf> (last accessed on 11 October 2017).

49 TAMPEP International Foundation (2009). *Sex Work, Migration, Health: A Report on the Intersection of Legislation and Policies Regarding Sex Work, Migration and Health in Europe*. Available at: http://tampep.eu/documents/Sexworkmigrationhealth_final.pdf (last accessed on 11 October 2017).

50 Transgender Europe (2016). *Welcome to Stay – Building Trans Communities Inclusive of Trans Asylum Seekers and Refugees*. Available at: <https://tgeu.org/asylum/> (last accessed on 11 October 2017).

51 European Union Agency for Fundamental Rights (FRA) (2017). *Current migration situation in the EU: Lesbian, gay, bisexual, transgender and intersex asylum seekers*. Available at: <http://fra.europa.eu/en/publication/2017/march-monthly-migration-focus-lgbti> (last accessed on 11 October 2017).

52 Back, Jhana (2017). *Assessing transgender asylum claims*. *Forced Migration Review*, 42: 34-36. Available at: <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/sogi/bach.pdf> (last accessed on 11 October 2017).

53 Cowen, Tim, Francesca Stella, Kirsty Magahy, Kendra Strauss, and James Morton (2011). *Sanctuary, Safety and Solidarity: Lesbian, Gay, Bisexual, Transgender Asylum Seekers and Refugees in Scotland*. 13. Available at: www.gla.ac.uk/media/media_195792_en.pdf (last accessed on 11 October 2017).

54 European Commission (2016). *Challenges in the Labour Market Integration of Asylum Seekers and Refugees*. Available at: ec.europa.eu/social/BlobServlet?docId=15894&langId=en (last accessed on 16 October 2017).

55 European Research Council (02 May 2017). *Migration and Crime Control Practices Across Europe*. Available at: <https://erc.europa.eu/projects-figures/stories/migration-and-crime-control-practices-across-europe> (last accessed on 11 October 2017).

56 Ibid.

57 Fusion (17 November 2014). Why did the U.S. lock up these women with men? Available at: <http://interactive.fusion.net/trans> (last accessed on 11 October 2017).

58 Government Accountability Office Report, Immigration Detention, cited in Fusion (17 November 2014). Why did the U.S. lock up these women with men? Available at: <http://interactive.fusion.net/trans> (last accessed on 11 October 2017).

59 Bachmann, Chaka L. (2016) No Safe Refuge: Experiences of LGBT asylum seekers in detention. Stonewall. Available at: https://www.stonewall.org.uk/sites/default/files/no_safe_refuge.pdf (last accessed on 11 October 2017).

60 *Ibid.*

61 Lieberman, Amy. (18 July 2013) Gay and Transgender Migrants Face Staggering Violence in Mexico. The Atlantic. Available at: <https://www.theatlantic.com/international/archive/2013/07/gay-and-transgender-migrants-face-staggering-violence-in-mexico/277915> (last accessed on 11 October 2017).

62 Legislation in all but three EU Member States punishes irregular entry with sanctions in addition to the coercive measures that may be taken to ensure the removal of the person from the territory of the state. Legislation in 17 Member States punishes irregular entry with imprisonment and/or a fine. Eight Member States punish it with a fine only. See more: European Union Agency for Fundamental Rights (FRA) (2014). Criminalisation of migrants in an irregular situation and of persons engaging with them. 4. Available at: http://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants_en.pdf (last accessed on 11 October 2017).

63 See more about the criminalisation of migration: International Committee on the Rights of Sex Workers in Europe (ICRSE) (2016).

64 European Union Agency for Fundamental Rights (FRA) (2014).

asylum and refugee applicants. According to a six-month Fusion investigation, treatment of trans asylum seekers by the United States Immigration and Customs Enforcement (ICE) is often humiliating, dangerous, and even deadly, and “can be so terrible that some are asking to be sent back to the very countries they were escaping.”⁵⁷ Clement Lee, of Immigration Equality, states, “I have clients that talk about being raped and being beaten in their home country but the most distressing part for them is detention here in the United States.” Although only one of every 500 detainees held in an ICE facility is trans, one of every five victims of confirmed sexual abuse in detention is trans.⁵⁸

In the UK, trans asylum seekers have been locked up in immigration detention centres for indefinite periods of time, “where bullying, abuse, and harassment are rife.”⁵⁹ A Stonewall study showed that they are particularly vulnerable in those spaces, experiencing harassment and violence both from other detainees as well as from members of staff, leading to serious long-term effects on their mental and physical wellbeing.⁶⁰ In Mexico, 36% of trans people originally from Central America who stayed in a migrant shelter reported experiencing some form of violence, surpassing that of cis women (27%).⁶¹

Those who do not apply for or do not receive refugee status, therefore, face many difficulties as undocumented migrants in accessing employment, housing, recourse to justice, and healthcare due to not possessing a valid permit to stay in the country in which they live or work. Additionally, they also face criminal sanctions: irregular entry and stay are unlawful in all EU member states.⁶² Under EU legislation, member states are required to issue a return decision to any non-EU national in an irregular situation, unless their status is regularised. The Return Directive introduced in 2008 allows the detention of non-EU nationals for up to six months, which can be extended up to 18 months in exceptional circumstances to carry out the removal process. Many member states even continue to punish migrants for irregular entry or stay with imprisonment or fines. In Italy, for instance, fines for irregular entry and stay can amount to up to 10,000 Euros. For irregular entry, the maximum length of imprisonment ranges from one month in Croatia, to three months in Belgium, or up to five years in Bulgaria.⁶³

As reported by the Fundamental Rights Agency of the European Union, public authorities and service providers are often obliged to report offences of irregular entry or stay to law enforcement agencies, which prevents undocumented migrants from seeking help from various institutions, including social services, healthcare, or juridical facilities.⁶⁴ Reporting crimes to the police might also result in detection, and the subsequent underreporting leads to high levels of violence targeting undocumented migrants, as it allows perpetrators to act with impunity. Furthermore, the use of criminal law to target employers and landlords restricts migrants’ access to housing and employment and leaves them vulnerable to exploitation. The criminalisation of migration also brings about abusive detection practices, such as racial and ethnic profiling of irregular migrants by the police, which has led to a significant level of distrust towards law enforcement by migrant communities.

Besides these extremely negative effects of criminalisation, language difficulties in the new country, lack of social networks and access to state benefits, and no access to employment in the formal economy push trans people into working in the sex industry. The (partial) criminalisation of sex work can further lead to police violence and being placed at risk of detection, detention or deportation. In the face of growing anti-prostitution efforts, as well as xenophobia and racism in Europe, migrant sex workers are particularly affected by repressive measures. Increasing trends to criminalise migration, coupled with anti-trafficking policies has significantly contributed to migrant sex workers’ vulnerability to abuse, violence, and exploitation, and has worsened their working conditions. Repeated police raids and so-called anti-trafficking rescue operations in sex work settings continuously undermine sex workers’ safety, deprive them of their earnings, force them to work underground, and increase their vulnerability to homelessness, rough living, and exploitation. It has also been well documented that these measures frequently result in migrants’ repatriation or deportation, often to countries where being LGBT or a sex worker is criminalised.

TMM data analysis shows that migrants constitute a high number of murdered trans and gender-diverse people in Europe. Of the 123 trans and gender-diverse people murdered in Europe since January 2008, 39 i.e. 32 per cent of all victims were migrants. In some countries, such as Italy, more than two thirds of the registered murders were migrants. Of the 32 reported murdered trans and gender-diverse people in Italy, 22 i.e. 69 per cent of all victims

were migrants (16 from Brazil). Of the 6 reported murders in France, 4 victims i.e. 67 per cent of all victims were migrants. 6 of the 9 reported murders in Spain i.e. 67 per cent were migrants. The only recorded murder in Portugal in 2008 was a migrant from Brazil. To sum up: in the four Southern European countries of France, Italy, Portugal, and Spain, where most trans and gender-diverse people from Africa and Central and South America migrate to, 33 of the 48 reported murders, i.e. 69 per cent, were migrants.

Case study: Brazil

with Sayonara Nogueira⁶⁵

Public policies have been neither sufficient nor effective in reducing violence against trans people in Brazil. Reports of murder in the country have consistently been so high that it accounts for almost 40% of all reported murders worldwide since 2008.

The migratory flux of Brazilian travestis moved mainly to France in the 1970s⁶⁶ and slowly changed to Italy in the 1980s and 1990s, which remained the preferred destination until recently. Nowadays, the main entry points of trans people to Europe are Italy (Rome, Milan and Emilia Romagna region), Spain (Madrid and Barcelona), France (Paris) and, currently, the United Kingdom (London). Once in Europe, many establish links with trans sex workers who “absorb” this population.

For many Brazilian trans people, being a sex worker in Europe gives them prestige, for the material and symbolic capital that it gives them, signalling distance from the discrimination, stigmatisation, and marginalisation which they are subjected to in Brazil. This flow from Brazil to Europe has existed since the 1970s, initially destined for showrooms in France, and, since 1980, for the sex industry in Italy. This move is driven by the dream of becoming “European,” which elevates this career to one of success and advancement. Despite all the risks that they are subjected to, ranging from living their life underground, to violence and death, a belief that they are moving towards a better life drives them, as they recognise that they will never be as successful if they remain in Brazil.

The process of migration begins within Brazil itself. Kicked out of their homes, trans people move from all regions towards the capital cities, especially São Paulo, a place that is seen as a preparatory course for Europe. From an early age, they learn from their elders that Europe is the best place to earn money, access gender-affirming health services, and to express oneself freely.

When Brazilian trans migrants arrive in Europe, they are received and sheltered according to a predetermined agreement that includes transportation, food, and accommodation. This does not equal trafficking, as financial conditions have been agreed between the two parties. Still, exploitation occurs frequently, with many arriving in Europe without much information, without knowing the language, without money or a place to stay, falling into debt and being forced to repay, as non-payment leads to documented detention, violence, coercion, and potentially death.

Lais, a 45-year-old sex worker who has been living in Rimini, Italy, for 25 years, explains:

“The main reason I decided to leave Brazil was the lack of opportunities, as, in the 90’s, the situation was much worse than it is today. I went to Europe in search of my financial independence. The main challenge I faced was to understand the country, obtain documentation and become a European citizen. Trans migrants in Europe have no rights. We have no right to any benefits from the state and, like a criminal, must live in hiding from control by the police. A big difference is that, in Europe, we seem to be more respected, though only by a little, and better treated by clients. Safety is somewhat more assured. In Brazil, there are no projects that encourage us to leave the streets. I have seen that in recent years, the feeling of repulsion towards foreigners has increased in Europe.”

65 Sayonara Nogueira is a public education teacher from Brazil, graduated in Geography, expert in Pedagogical Coordination, Support Services on Special Education (Inclusive Education), and Public Policy of Gender and Race. She is also the vice-president of the Instituto Brasileiro Trans de Educação (IBTE).

66 Kulick, Don (1998). *Travesti: sex, gender and culture among Brazilian transgendered prostitutes*. The University of Chicago Press; Kulick, Don (2008). *Travesti. Prostituição, sexo, gênero e cultura no Brasil*.

IV. Trans health in sex work

Trans people face numerous disparities in health services globally, including discrimination and violence. They are denied general and trans-specific healthcare, don't have access to trans-inclusive sexual education materials, experience a lack of competent and sensitive healthcare providers, and their specific needs fail to be met in all segments of the medical care system. In primary care, the principles of non-discrimination and confidentiality are often breached, while in mental healthcare, psychosocial services for trans people are rare or non-existent. As psychological and/or psychiatric evaluations are necessary in many contexts for access to transition-related healthcare and legal gender recognition, trans people do not trust these professionals and institutions. Gender-affirming care is often inaccessible due to the belief that these surgical and medical interventions are only cosmetic, and are medically unnecessary, or are the manifestation of mental disorders.⁶⁷ Even when trans-specific services are available, they are usually extremely expensive and not covered by health insurance.

Although there is little research into the physical and mental health of trans sex workers outside the realm of HIV/AIDS and STIs, there is evidence that they face higher levels of negative outcomes and discrimination, likely, in part, due to the stigma relating to their trans status, involvement in the sex industry and racial/ethnic minority background. The National Transgender Discrimination Survey from the U.S.,⁶⁸ for instance, reports that, in comparison to non-sex worker trans people, trans sex workers are more likely to have significant physical or mental health disabilities, and their mistreatment is more widespread across various medical settings, especially in the Emergency Room (ER) and rape crisis centres. According to the results of TGEU's Healthcare Survey, being engaged in sex work did not significantly impact the respondents' health outcomes or suicide rates. However, trans sex workers were more likely to feel discriminated in the healthcare system.⁶⁹ This is exacerbated in the case of undocumented trans sex workers, who have very few options when requiring medical assistance.⁷⁰

Trans people are one of the groups most affected by the HIV epidemic and are 49 times more likely to be living with HIV than the general population.⁷¹ Prevalence rates among trans women are worrying: 19.1% of trans women worldwide are estimated to be living with HIV.⁷² Available figures for trans sex workers in the Netherlands, Spain, and Italy indicate even higher prevalence rates of 20-27%.⁷³ Data from Latin America and the Caribbean also confirm that HIV prevalence is much higher among trans women sex workers than among non-trans male and female sex workers.⁷⁴

The main reasons for a significant vulnerability to HIV and AIDS are: poor healthcare coverage and lack of availability of affordable, confidential, and respectful HIV and health services; lack of access to information on general and trans-specific healthcare; criminalisation of trans identities, homosexuality, and sex work; punitive environments, social marginalisation, economic vulnerability, and continuing stigma, discrimination, and violence, that often lead to high risk behaviour, including unprotected sex and medically unsupervised hormone therapy and body modifications.

67 UNDP et al. (2016). Implementing comprehensive HIV and STI programmes with transgender people: practical guidance for collaborative interventions. Available at: http://www.unaids.org/sites/default/files/media_asset/UNDP-et-al_2016_transgender_practical_guidance_collaborative_interventions_en.pdf (last accessed on 11 October 2017).

68 James, Sandy E., Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma'ayan Anafi (2016).

69 Transgender Europe (2017).

70 International Committee on the Rights of Sex Workers in Europe (ICRSE) (2016).

71 UNAIDS (2016). Prevention gap report. Available at: http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf (last accessed on 11 October 2017). Please note that the global meta analysis and data around trans women and HIV comes almost exclusively from Asian and Latin American countries.

72 UNAIDS (2014).

73 ECDC (2013); Lucy Platt et al (2015). HIV in the European Region: Vulnerability and Response, Directions in Development - Human Development: World Bank.

74 UNAIDS (2016).



Sex workers protest for better laws and working conditions outside the International AIDS conference in Durban, South Africa, July 2016.

Photo credit: Kevin Sutherland/EPA

There are high rates of unprotected anal sex among trans women, which carries a high risk of HIV transmission.⁷⁵ Several factors contribute to this. Stigma and discrimination, leading to low self-esteem and disempowerment, can make it harder for trans people to negotiate condom use.⁷⁶ In many settings, condom use is often controlled by the insertive sexual partner, so many trans women who have sex with cis men can feel unable to instigate condom use or fear rejection from (potential) sexual partners.⁷⁷ Hormone therapy, which some trans women and trans-feminine people use, can lead to erectile dysfunction, increasing the likelihood of taking the receptive role during sex.⁷⁸

Frequently, these root causes are not addressed by public health policies; on the contrary, trans sex workers are targeted by abusive interventions, such as mandatory or forced testing and treatment. Condoms being used as evidence to press charges against sex workers, including street-based trans sex workers for prostitution-related offences, have also been documented in the European region, for instance in Serbia and Turkey in the framework of the TGEU's ProTrans project. This practice further deters trans sex workers from condom use in their work.

Forced HIV and STI testing often takes place with impunity, justified as a 'public health' necessity around the world. At the writing of the report, alarming stories of physical violence, verbal abuse, forced medical examinations, and detention of LGBTI people have been emerging from Azerbaijan. The Ministry of Internal Affairs and the Prosecutor General's Office claimed in their communication that they aimed at, "identifying individuals who violate public order by offering intimate services to tourists in the evening in the central part of Baku, thus 83 persons were detained by the employees of the Main Police Office and territorial police authorities on September 15 to 30 for the purpose of checking whether they are carriers of skin and venereal diseases and taking other preventive measures."⁷⁹ The reasons for detention, as claimed by the authorities, are the violation of Articles 510 (hooliganism) and 535.1 (submission to the lawful request of a police officer) of the Code of Administrative Offenses. Administrative arrests were imposed on 56 people, while 18 people received administrative penalties.

Additionally, the pathologising attitude in medical settings and establishments manifests itself in the requirement for trans people to obtain psychiatric diagnoses in order to have their gender legally recognised, and in the requirement for sex workers to undergo mandatory HIV and STI testing, which is often tied to their legal registration. Stereotypes associated with sex workers fuel perceptions that are the basis for such repressive legal provisions and practices, namely prejudices that sex workers are vectors of diseases and play a major role in the transmission of HIV and other STIs. Repressive practices such as compulsory registration and mandatory testing not only undermine sex workers' right to privacy, dignity, bodily integrity, autonomy, and non-discrimination, but also contribute to stigmatisation and an increased risk of blackmailing and violence, which further expose them to HIV and AIDS.

The criminalisation of drug use further contributes to negative outcomes among trans sex workers, and has a negative effect on HIV prevention and treatment.⁸⁰ Drug convictions disproportionately affect trans sex workers, especially trans women of colour selling sex on the streets, as drug use is substantial in many trans sex worker communities due to various factors, including poverty and social isolation. Incarceration has severe consequences for trans people in prison: documentation demonstrates that they face violence from inmates and prison personnel, lack access to general and trans-specific healthcare, are allocated to wings that don't match their gender or gender identity, and are frequently placed in solitary confinement as a "preventative measure." See more about trans people in prison on page 19.

75 WHO (2011). Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people. Available at: http://www.who.int/hiv/pub/guidelines/msm_guidelines2011/en (last accessed on 11 October 2017).

76 UNDP (2012). Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region. Available at: <http://www.undp.org/content/dam/undp/library/hiv/aids/Lost%20in%20translation.pdf> (last accessed on 11 October 2017).

77 UNDP (2010). Hijras/transgender women in India: HIV, human rights and social exclusion. Issue Brief. Available at: http://www.undp.org/content/dam/india/docs/hijras_transgender_in_india_hiv_human_rights_and_social_exclusion.pdf (last accessed on 11 October 2017).

78 UNDP (2012).

79 See more in the press release of ILGA-Europe: <https://www.ilga-europe.org/resources/news/latest-news/azerbaijan-crisis-donate-now/mass-detention-azeri-lgbti-people-lgbti>

80 DeBeck, Kora, Tessa Cheng, Julio S Montaner, Chris Beyrer, Richard Elliott, Susan Sherman, Evan Wood, and Stefan Baral (2017). HIV and the criminalisation of drug use among people who inject drugs: a systematic review. Available at: <https://www.ncbi.nlm.nih.gov/pubmed/28515014> (last accessed on 11 October 2017).

V. Intersectional violence against trans and gender-diverse sex workers



Trans activists in Mexico City protesting violence against LGBT people and sex workers on 13 August 2011.

Photo credit: Alfredo Estrella for AFP

Trans and gender-diverse people around the world face multiple types of violence: structural, institutional, societal, and interpersonal violence. Structural violence is violence that is inscribed in the very social structures in which trans people live, which are produced and maintained by ideologies of gender and sexuality, and relationships of power that combine, resulting in homelessness, poverty, and other structural inequalities, as demonstrated in the previous sections. Transphobia can be reflected in policies, laws, and institutional practices that discriminate against trans people, such as in education, healthcare, and criminal justice systems. It can be societal, such as the rejection and mistreatment of trans people by others. Finally, it can manifest in direct interpersonal anti-trans incidents, and hate crimes specifically targeting trans people. In this section, we will focus primarily on institutional and interpersonal violence, and their interconnectedness.

A striking manifestation of violence against trans people is the high murder rates, the subject of the Trans Murder Monitoring (TMM) project of Transgender Europe. The TMM archive registered a total of 2609 reports of murdered trans and gender-diverse people in 71 countries worldwide between 1 January 2008 and 30 September 2017. These killings are reported from all major world regions (Africa, Asia, Central and South America, Europe, North America, and Oceania). Given the limited information available from many countries and regions, these murders realistically represent only a small fraction of the actual murder rate.⁸¹ The United Nations Special Rapporteur on Violence against Women has also indicated that murders due to sexual orientation, gender identity, and/or gender expression tend to be characterised by serious levels of physical violence that “exceed those present in other types of hate crimes.”⁸² A report published by the Inter-American Commission on Human Rights (IACHR) in 2015 places a special emphasis on violence against trans people, particularly trans women. IACHR states that, “according to the information received and the data produced by the IACHR, trans women are killed mostly before 35 years of age and are particularly vulnerable to violence by law enforcement agents.”⁸³ According to the report, “acts of violence based on prejudice perpetrated by State agents have been reported in almost every OAS Member State,” and “trans women and trans sex workers are particularly vulnerable to police abuse and are regularly subjected to inhumane treatment by law enforcement when detained.”⁸⁴

Violence against trans and gender-diverse people frequently overlaps with other axes of oppression prevalent in society, such as racism, sexism, xenophobia, and anti-sex worker sentiment and discrimination. Of the reported killings of trans and gender-diverse people whose profession was known, 62 per cent were sex workers. In Europe, Turkey has seen 44 trans women, the majority sex workers, murdered in the last almost nine years. At the same time, most of the murdered trans migrants in Europe come from Brazil (55 per cent). In Italy alone, 16 victims of the 22 murdered migrants were from Brazil, and of those Brazilian trans migrants, 12 were sex workers (75 per cent). TMM data shows that, in the United States, the victims are overwhelmingly trans women of colour and/or Native American trans women (71 per cent). In fact, according to the National Coalition of Anti-Violence Programs (U.S.), trans women experience a greater risk of death by hate violence than any other group, and the number of reports are consistently and steadily rising.⁸⁵

Trans people face high levels of police mistreatment and harassment, and the police are one of the most common perpetrators of violence against trans sex workers. TGEU's ProTrans project, for instance, has documented more than 141 hate-crime incidents taking place in 2016. In the incidents that involved physical and sexual assault and psychological violence at the hands of the police, the majority of the victims were trans women sex workers. Other abusers included organised hate-crime groups and people posing as clients.⁸⁶

Likewise, results from the 2015 U.S. Transgender Survey showed high rates of police harassment, abuse, or mistreatment among trans people who interacted with the police either while doing sex work or who were mistakenly thought to be doing sex work, “with nearly nine out of ten (86 per cent) reporting being harassed, attacked, sexually assaulted, or mistreated in some other way by police.”⁸⁷ A survey carried out in Beijing and Shanghai in China also confirms high police abuse rates among female trans sex workers. According to the results,

81 Information about the TMM research project's founding, methodology, and challenges can be found on Balzer, Carsten and Lukas Berredo (2016). TMM Annual Report 2016: 2,190 murders are only the tip of the iceberg - An introduction to the Trans Murder Monitoring project. Available at: <http://transrespect.org/en/tvt-publication-series/> (last accessed: 12 September 2017).

82 UN, Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/20/16, May 23, 2012, para. 71.

83 Inter-American Commission on Human Rights (IACHR). (2015). Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas. Available at: <http://www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf> (last accessed: 1 October 2017).

84 Ibid.

85 National Coalition of Anti-Violence Programs (NCAVP). (2017). A Crisis of Hate: A Mid Year Report on Homicides Against Lesbian, Gay, Bisexual and Transgender People. Available at: <http://avp.org/wp-content/uploads/2017/08/NCAVP-A-Crisis-of-Hate-Final.pdf> (last accessed: 21 September 2017).

86 Transgender Europe (2017). Anti-trans hate crimes in Central and Eastern Europe and Central Asia. Summary of Transgender Europe's submission to the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE). Available at: https://tgeu.org/wp-content/uploads/2017/05/TGEU_OSCE_submission.pdf (last accessed: 30 September 2017).

87 James, Sandy E., Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet, and Ma'ayan Anafi (2016).

64% of the sex workers had been arrested and detained by the police, many of whom had been arrested more than once.⁸⁸

High levels of police mistreatment and violence, accompanied by a climate of impunity, contributes to the well-founded assumption that trans sex workers are easy targets for violence, as they have no access to protection and justice. Thus, victims rarely report incidents to law enforcement agencies as they place no trust in the justice system and fear further victimisation, or even punishment, such as for sex work related offenses. In Turkey, for example, according to Red Umbrella Sexual and Human Rights Association, 42 per cent of trans women sex worker respondents who experienced physical violence did not report these incidents to the police or to a prosecutor's office. Of the incidents that were reported, only 11 per cent resulted in cases in which perpetrators received an appropriate sentence. In the other cases, either the police ignored the complaint or judges acquitted the perpetrators.⁸⁹

In many cases, police officers that are perpetrators of violence file complaints against trans people for "resisting a police officer's request" or "insulting law enforcement officials". Frequently, trans sex workers, rather than their assailants, are prosecuted. In several incidents recorded in Georgia in 2016, when victims/survivors called the police upon facing a violent attack, the police arrested and pressed charges against them based on Article 173 of the Administrative Offences Code of Georgia (resisting the request of a police officer) or Article 166 (petty hooliganism), and did not focus on identifying or pressing charges against the offenders.⁹⁰

Police's attitudes and actions are often fuelled by their superiors or even politicians. The ProTrans project, for instance, documented a case of police raiding a sex worker's apartment after the Minister of Internal Affairs had made a statement about cleaning the city of sex workers, even though sex work is not illegal in the country. Trans women sex workers were detained and exposed to humiliation and mockery at the police station. Journalists were invited to film them on camera without concealing their identities, illustrating the trend in the post-Soviet region of using the Internet and media platforms to humiliate and out trans people, as demonstrated by numerous recordings from Siberia, Russia.⁹¹

Systemic violations against trans sex workers at the hands of the police or other state authorities lead to exposure to violence by non-state actors. Violence against trans sex workers happens at the workplace, whether indoor or outdoor, and is perpetrated by (ex)-partners and family members, gangs and other organised groups, who are often religious extremists. Criminalising laws and policies exacerbate trans sex workers' vulnerability to violence. Police harassment and forced rescue and rehabilitation raids by the police in the name of anti-trafficking may result in sex workers being evicted from their residences and even being accused of procurement and other prostitution related offences. This can cause financial instability, resulting in the need to take on aggressive, non-regular clients, and generally pushes them towards clandestine and remote locations where they have less of a chance to screen clients, negotiate with them, and assess security risks.⁹² It is therefore not surprising that more than half of the ProTrans hate-motivated, serious bodily harm cases occurred at sex work venues in 2016.⁹³

The result of arbitrary fining and detention leads to trans people experience inhumane and degrading treatment in prisons, lock-up facilities, police stations, immigration detention centres, and other detention venues. They are at the bottom of the informal hierarchy in many detention facilities, which results in being disproportionately subjected to violence, torture, and other forms of ill treatment.⁹⁴ Trans sex workers often face detention in psychological centres, solitary confinement in immigration detention centres, intrusive body searches by cis male officers, and no access to gender-appropriate clothing, individual bathroom or shower facilities, as documented by Midnight Blue, a Hong Kong based NGO.⁹⁵



Protesters call for justice after the murder of Hande Kader, a trans woman sex worker in Istanbul, Turkey in 2016.

Photo: EPA

88 Asia Catalyst (2015). "My life is too dark to see" - A Survey of the Living Conditions of Transgender Female Sex Workers in Beijing and Shanghai. Available at: <http://asiacatalyst.org/wp-content/uploads/2014/09/Asia-Catalyst-TG-SW-Report.pdf> (last accessed on 3 October 2017).

89 Ördek, Kemal (ed.) (2014). *Sex Workers Speak Up: We Want Freedom*. 37 - 38.

90 Transgender Europe (2016).

91 Ibid.

92 International Committee on the Rights of Sex Workers in Europe (ICRSE). (2016)

93 Transgender Europe (2017).

94 United Nations, Human Rights Council. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, February 1, 2013, para. 79. Further resources include: the website of National Center for Transgender Equality at <http://www.transequality.org/issues/police-jails-prisons>; Irish Penal Reform Trust. (2016). *Out on the Inside: The Rights, Experiences and Needs of LGBT People in Prison*. Available at: http://www.iprt.ie/files/IPRT_Out_on_the_Inside_2016_EMBARGO_TO_1030_Feb_02_2016.pdf (last accessed on 22 October 2017).

95 Midnight Blue (2016). *Cases of Arrested Transgender Sex Workers*. Available at: <http://www.nswp.org/sites/nswp.org/files/Cases%20of%20Arrested%20Transgender%20Sex%20Workers%2C%20Midnight%20Blue%20-%202016.pdf> (last accessed on 12 October 2017).

VI. Key recommendations to decision and policy makers

Our recommendations follow key global and regional standards underpinning states' positive obligations to protect trans people, sex workers, and trans sex workers from violence, and civil society positions on sex work decriminalisation, articulated by many non-governmental organisations over the past decade.

At the United Nations level, in 2016 the Human Rights Council established a mandate of Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. In 2017, the Independent Expert published his first report, outlining the nature of the problems his mandate was designed to address and setting out a programme of work. According to the findings of the report, "in many countries, they [*trans people*] are often bullied at school, are then pushed out onto the streets and then land up in clandestine professions. They face huge hurdles in accessing other kinds of work and are challenged daily by issues such as access to healthcare, access to housing, getting an adequate standard of living, and personal safety."⁹⁶ The Independent Expert also emphasised that, "non-recognition [of trans people] is interlinked with the environment that leads to violence and discrimination."⁹⁷ The U.N. Special Rapporteur on the Right to Health also highlighted that criminalisation may occur through explicit criminal law provisions banning sex work or various practices around sex work, as well as through the use of other pre-existing laws (not specific to sex work) to harass sex workers, such as vagrancy or public nuisance laws.⁹⁸

Even before the Independent Expert mandate was established, different Treaty Bodies highlighted the issue of violence based on gender identity and/or expression in different countries. For example, in its concluding observations on Kyrgyzstan, the Committee on the Convention for the Elimination of Discrimination Against Women (CEDAW) highlighted the disadvantaged situation of different groups of women including trans women, calling on the State party to "ensure access to sustainable, non-discriminatory and non-prejudiced services, such as shelters, sexual and reproductive health services, legal aid and counselling, and employment [...], and protect them from violence, abuse and exploitation." The recommendations also highlighted the practice of illegal forced testing for HIV/AIDS and other sexually transmitted diseases among sex workers, and the limited assistance available to them. The CEDAW Committee issued similar recommendations in several other instances as well,⁹⁹ such as in the case of Hungary in 2013, recommending that the State, "adopt[s] measures aimed at preventing discrimination against sex workers and ensure that legislation on their rights to safe working conditions is guaranteed at national and local levels."¹⁰⁰

Besides the support for decriminalisation of sex work expressed by several U.N. agencies,¹⁰¹ there has been growing recognition of sex workers' rights expressed by non-governmental organisations in the past 10 years. The demands of the sex workers' movement, such as the decriminalisation of sex work, recognition of sex work as work, and protection of sex workers' human, health, and labour rights, have been taken into consideration by Amnesty International,¹⁰² Human Rights Watch,¹⁰³ La Strada International (LSI),¹⁰⁴ the Global Alliance Against Traffic in Women (GAATW),¹⁰⁵ and, most recently, Transgender Europe (TGEU).¹⁰⁶

General measures:

- Collect trans-inclusive data on gender disparities, intersectional gender-based discrimination and violence, and initiate specific data collection among trans people regarding access to education, employment, health, housing, and justice, in cooperation with local trans groups and organisations.
- Train professionals (victim support providers, police officers, judicial officers, NGO staff, healthcare workers, teachers etc.) on preventing and responding to discrimination and violence against trans people, sex workers, including trans sex workers, and providing sensitive and appropriate support.
- Develop and implement public education programmes and school curricula to eliminate prejudices against trans people and other oppressed groups.
- Provide funding for trans and sex worker organisations to support community building, community-based research and services, training, advocacy and campaigning activities.

96 Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, A/HRC/35/36, 19 April 2017, §59.

97 *Idem*, §57.

98 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, A/HRC/14/20, §29, 27 April 2010.

99 Sex Workers' Rights Advocacy Network (2013). Reporting from the shadows. Using CEDAW to Advocate for Sex Workers' Rights in Central Eastern Europe and Central Asia. Available at: <http://www.nswp.org/sites/nswp.org/files/Reporting%20from%20the%20Shadows%2C%20SWAN%20-%202013.pdf> (last accessed on 20 October 2017).

100 *Ibid*, 17.

101 These are the following: United Nations Development Programme (UNDP), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), United Nations Population Fund (UNFPA), World Health Organisation (WHO), and the United Nations Joint Programme on HIV/AIDS (UNAIDS).

102 Amnesty International (2016). Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers. Available at: <https://www.amnesty.org/en/documents/pol30/4062/2016/en/> (last accessed 2 September 2017).

103 Human Rights Watch (2014). World Report 2014. 42. Available at: https://www.hrw.org/sites/default/files/wr2014_web_0.pdf (last accessed on 21 September 2017).

104 For more information about nongovernmental organisations supporting sex work decriminalisation: <http://www.sexworkeurope.org/news/general-news/icrse-1100-organisations-and-individuals-ask-amnesty-international-support>

105 <http://www.gaatw.org/component/content/article?id=754:gaatw-is-statement-on-attack-on-un-research-calling-for-the-decriminalisation-of-sex-work>

106 <https://tgeu.org/sex-work-policy/>

Measures to prevent and address social exclusion:

- Create and implement anti-discrimination legal and policy measures and affirmative actions/positive measures in the field of education and employment to prevent any person from having to rely on selling sex as a means of survival due to poverty or discrimination.
- Combat gender stereotypes and other forms of gender-based discrimination and ensure that all individuals, including those at risk of (intersectional) discrimination and abuse due to their sexual orientation, gender identity and/or expression, race, ethnicity, indigenous identity, migrant status, or other characteristics, are equally protected by legal, policy, and social measures.

Decriminalisation:

- Decriminalise all aspects of sex work, same-sex relationships, gender identity and/or expression, drug use, HIV exposure, non-disclosure, and transmission, and bodily modification procedures and treatments.
- Review vague public morality, nuisance, loitering, and decency laws, and take steps to eliminate their disproportionate and subjective application against trans people, including trans sex workers and other marginalised groups, e.g. racial/ethnic minorities.

Criminal justice reform:

- Erase prostitution, gender identity/expression, HIV status, and drug use related offences from criminal records.
- Develop measures to enhance police accountability and transparency, and work with marginalised groups disproportionately policed to monitor their implementation.
- Ensure that victims/survivors of violence receive appropriate remedies and redress, including compensation and legal aid, and that self-organised trans and sex worker groups are involved in victim support and anti-violence strategies.
- Adopt and implement policies that protect trans detainees from discrimination and violence in closed settings, such as prison and immigration detention centres, with regards to issues such as placement, body searches, access to gender-appropriate items, general and trans-specific healthcare, legal gender recognition processes, and the ban on solitary confinement and segregation.

Migration reform:

- Support irregular migrants' regularisation and the end of deportations of (undocumented) migrants, including trans people and sex workers.
- Develop and implement guidelines on sensitive and culturally appropriate processes for determination of refugee status on the basis of gender, gender identity and/or expression, and sexual orientation.
- Ensure that asylum seekers, refugees, and (undocumented) migrants do not face criminal sanctions for illegal entry or stay and have access to welfare support and to economic and employment opportunities.

Healthcare reform:

- Adopt measures for improved access for all trans people, and reform trans-specific healthcare, as well ensuring that general healthcare provisions, such as suicide prevention measures, are relevant for, and inclusive of, trans people, including trans sex workers.
- Remove the requirement to obtain a disorder diagnosis in order to access gender-affirming healthcare services, and reform legal gender recognition into quick, accessible, and transparent procedures that are based on self-determination.
- Implement the guidelines of comprehensive HIV/STI programmes with sex workers¹⁰⁷ and trans people¹⁰⁸ issued by UN agencies and the WHO.

¹⁰⁷ WHO, UNFPA, UNAIDS, NSWP, World Bank, UNDP (2013). Implementing comprehensive HIV/STI programmes with sex workers: practical approaches from collaborative interventions. Available at: http://www.who.int/hiv/pub/sti/sex_worker_implementation/en/ (last accessed on 20 August 2017).

¹⁰⁸ UNDP, IRGT, UNFPA, UNAIDS, WHO, USAID, PEPFAR, UCSF Center of Excellence for Transgender Health, Johns Hopkins Bloomberg School of Public Health (2016). Implementing comprehensive HIV and STI programmes with transgender people. Practical guidance for collaborative interventions. Available at: <http://www.who.int/hiv/pub/toolkits/transgender-implementation-tool/en/> (last accessed 1 August 2017).

Terminology

Asylum seekers are those who seek safety from persecution or serious harm in a country other than their own and await a decision on the application for refugee status under relevant international and national instruments.

Cis(gender) is a term used to describe people who are not trans and/or gender-diverse.

Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. This could be based on gender, gender identity, gender expression, sexual orientation, ethnicity, religion, age, disability, or other characteristics. A hate crime comprises two distinct elements:

- 1) it is an act that constitutes an offense under the criminal law, irrespective of the perpetrator's motivation; and
- 2) in committing the crime, the perpetrator acts on the basis of prejudice or bias.

Migrants are those people who are moving or have moved across an international border or within a state away from their habitual place of residence.

Refugees are people who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, belonging to a particular social group or political opinions, are outside the country of their nationality and unable or unwilling to avail themselves of the protection of that country.

Sex work is the exchange of sexual services (involving sexual acts) between consenting adults for some form of remuneration, with the terms agreed between the seller and the buyer, in accordance with Amnesty International's sex work policy.

Sex workers are adults (aged 18 and older) of all genders who receive money or goods in exchange for the consensual provision of sexual services, either regularly or occasionally.

Trans and gender-diverse people include those with a gender identity that is different from the gender they were assigned at birth, and those who wish to portray their gender in a way that differs from the one they were assigned at birth. Among them are those people who feel they have to – or those who prefer/choose to – present themselves in ways that conflict with the social expectations of the gender role assigned to them at birth. They may express this difference through language, clothing, accessories, cosmetics, or body modifications. Trans people and gender-diverse people include, among many others, transsexual and transgender people, trans men and trans women, cross-dressers, agender, multigender, genderqueer, and gender non-binary people, as well as intersex people who relate to or identify as any of the above. Also included are those who self-identify or relate to the terms "trans people" or "gender-diverse people" in international contexts, such as people who see themselves as a part of local, indigenous, or sub-cultural groups – e.g. Leitis in Tonga, travesti in some Latin American countries, – and those people in non-binary gender systems who were raised in a different gender than male or female. Although some gender-diverse people feel represented by the umbrella term "trans," others do not, and vice-versa. Hence, we have opted to frequently use both terms throughout this report.

Transphobia encompasses a spectrum of violence, discrimination, and negative attitudes towards trans and gender-diverse people or people who transgress or do not conform to social expectations and norms having to do with gender. This includes institutionalised forms of discrimination, criminalisation, pathologisation, and stigmatisation that manifest in various ways, ranging from physical violence, hate speech, insults, and hostile media coverage to more diffuse forms of oppression and social exclusion.

Undocumented or irregular migrants are those migrants who, for various reasons, do not have a valid permit to stay in the country in which they live or work. They are also described as migrants in irregular situations or migrants of irregular status.

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