In Thailand, about 300,000 individuals earn a living from sex work, contributing to 10% to 12% of the GDP. Even though sex workers are not recognized as 'workers', sex work is criminalized under the Criminal Code of 1956 (the “Criminal Code”) and the Prevention and Suppression of Prostitution Act of 1996 (the “Act”). The Act is applied in a discriminatory manner, targeting and punishing sex workers and not their clients. To enforce the Act, the police resort to violent means, including the use of entrapment and raids of entertainment establishments employing sex workers. Sex workers belonging to marginalized groups, i.e., women, LGBTIQ+, migrant workers, ethnic minorities, and indigenous peoples, face multiple and intersecting forms of discrimination and structural violence, falling prey to entrapment and violence during police raids, while also being denied access to labor protections, health services and fair trials.

During its 2nd UPR cycle, Thailand received one recommendation by Finland directly addressing rights of sex workers, which it supported. The government committed to “increase its efforts to ensure the right to the highest attainable standards of health also to sex workers by ensuring them access to healthcare and services and comprehensive sexuality education.” The government also received 30 recommendations related to prevention of discrimination and protection of marginalized groups, of which it supported 28 and noted two. However, as sex workers continue to be criminalized and are subject to stigma, violence, exploitation, discrimination, and marginalization in their daily lives and at the workplace, the government failed to implement all of the recommendations. Furthermore, despite Thailand’s adoption of a National Action Plan on Business and Human Rights (NAP-BHR) on October 29, 2019, in line with Sweden’s recommendation during the 2nd UPR cycle, the NAP-BHR fails to recognize sex work as work, thereby dismissing the rights of sex workers.

**REALITIES ON THE GROUND**

**Challenges**

**Challenge 1: Criminalization of sex work**

Sex work is criminalized in Thailand under the Criminal Code and the Prevention and Suppression of Prostitution Act of 1996 (the Act). Under the Act, sex workers face a fine of up to THB 40,000 or imprisonment of up to 2 years, or both.

The Prevention and Suppression of Prostitution Act of 1996 criminalizes sex work by also linking it with human trafficking, confusing sex work with trafficking. Ultimately, the police use trafficking to justify raids on entertainment establishments to arrest and detain sex workers, either as criminals under the Criminal Code and the Prevention and Suppression of Prostitution Act, or as victims of trafficking under the Prevention and Suppression of Human Trafficking Act of 2008.

In 2021, the Thai government renewed its efforts to modernize and reform laws on sex work in response to calls from sex workers to decriminalize sex work. The Department of Women’s Affairs and Family Development (DWF) under the Ministry of Social Development and Human Security opened a public consultation on the direction of the regulation of sex work from August 6, 2021, to October 5, 2021. The Director-General of the DWF expects that the direction of the regulation of sex work will be determined in December 2021.

**Cases, Facts, Comments**

Following its country visit to Thailand in April 2018, the UN Working Group on Business and Human Rights recognized that the main obstacle to the protection of sex workers in Thailand against human rights abuses is the criminalization of sex work. Criminalization prevents sex workers from access to their basic rights, including social security benefits and healthcare.

Due to the criminalization of sex work, sex workers cannot formally access legal protection and, as a result, have little to no access to state-based judicial remedies when their rights are violated. Fearing being charged, sex workers are often reluctant to report crimes or rights violations. When charged, sex workers acquire criminal records and are treated as criminals by potential employers, making it difficult for them to pursue alternative employment with better working conditions if they desire. Unable to report crimes and rights violations or turn to new types of work, sex workers are forced to continue to work under exploitative conditions. In 2019, more than 24,000 people were arrested, prosecuted, and fined for offenses related to sex work.
During the outbreak of COVID-19, criminalization takes on a heightened impact on sex workers’ rights. Sex workers were the first affected and one of the worst affected groups owing to the physical contact that sex work involves as well as its dependence on the tourism sector. With the shutdown of entertainment establishments by the government, sex workers have struggled to survive with no income to support themselves and their dependents. Some sex workers go for days without any food and shelter, while others are forced to borrow from loan sharks. Ultimately, many sex workers end up working on the streets, where the risk of contracting COVID-19 is increased. On top of putting their lives at risk, street-based sex workers face the risk of arrest and prosecution. To date, the government has charged several street-based sex workers with violating the COVID-19 Emergency Decree, which is punishable by a fine of up to THB 40,000 or imprisonment of up to 2 years, or both.

Although Section 74 of the 2017 Constitution sets out the duty of the State to provide labor protection and social security benefits, the government fails to extend these protections to sex workers, while the same protections are guaranteed to workers in all other sectors. The government often cites the criminalization of sex work to justify withholding labor protection.

A study conducted by EMPOWER Foundation found that 87% of women employed in the entertainment industry work in conditions failing to meet national legal standards for labor protection or the ILO criteria for decent work. In particular, sex workers experience poor working and living conditions, including a lack of adequate toilets, dirty workplaces, loud noises, a lack of privacy in shared sleeping quarters, the absence of ventilation, fire exits, and fire escapes, and iron bars or fixtures on doors and windows in some workplaces. Sex workers also experience excessive working hours with insufficient rest days, ranging from zero to two per month, and a lack of paid leave. They also face unfair wage deductions, ranging from 100 THB to 2,000 THB, imposed by employers and managers for taking sick leave, and failing to undergo mandatory health checks or take a client to a place designated by the establishment. Moreover, sex workers face challenges because they often lack formal employment contracts. Often, no agreements are made between the worker and employer, and services and targets are unilaterally decided by the employer. In addition to facing numerous rights violations, sex workers also face barriers to collective bargaining for better working conditions.

During the outbreak of COVID-19, aside from being rendered ineligible for government assistance, sex workers have not received any compensation from entertainment establishments employing them, despite being employed there for a substantial period. Many sex workers have had their employment terminated during the outbreak, further preventing them from accessing government assistance.

Due to their criminalization and the no recognition of sex work as work, sex workers have largely been excluded from the government’s response to COVID-19. Most Thai sex workers are ineligible for assistance under the stimulus packages introduced by the government. Non-Thai sex workers face a more precarious situation because of their illegal status, which makes them not only ineligible for any forms of government assistance, but also subject to the risk of being arrested and deported to their country of origin.

### Challenge 2: Sex workers are denied labor protection under Thai law, which subjects them to exploitative working conditions and unfair employment practices

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### Challenge 3: Sex workers face abuse, violence, and harassment at the hands of the police and clients

Sex workers experience various forms of abuse, violence, and harassment from clients. Compounding these experiences are violence at the hands of police and other law enforcement officials, ranging from frequent violent raids and random drug tests, to arbitrary arrests, extortion, and demands for bribes or protection money.

**Police Violence & Corruption**

Because sex work is criminalized, sex workers are often forced to pay bribes to the police to be able to continue their work. Police officers utilize the Prevention and Suppression of Prostitution Act to demand bribes from sex workers on multiple occasions, threatening them with legal action if they refuse to pay. Consequently, in some places in Thailand, 10% to 17% of sex workers’ earnings go towards paying bribes to the police. Migrant sex workers even pay 26% of their monthly earnings in bribes to the police.
REALITIES ON THE GROUND

Challenges

Sex workers continue to suffer high rates of violence by the police because of the use of entrapment, both offline and online, and raids of entertainment establishments employing sex workers. As a result, sex workers do not report their experience of violence or theft from clients.

RECOMMENDATIONS

1. On Challenge 1: Criminalization of sex work


1.2. **Adopt laws against the arbitrary arrest and detention of sex workers.** Sex workers’ criminal charges for offenses related to sex work should also be expunged from their criminal records.

2. On Challenge 2: Sex workers are denied labor protection under Thai law, which subjects them to exploitative working conditions and unfair employment practices

2.1. **Consult sex workers on how to address and measure exploitation within the entertainment industry.** The following forms of exploitation, as recognized by sex workers, should be urgently addressed: salary cuts; compulsory alcohol consumption; interference with their freedom to choose or refuse customer; and receipt of any less than 50% share of the earnings. For migrant sex workers, the additional elements of passport retention and/or movement restriction should be recognized as indicators of exploitation.

2.2. In line with the 2017 CEDAW Committee’s Concluding Observations to Thailand and the 2019 Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, **focus on better regulation of the entertainment industry by ensuring the full application of labor laws and social benefits within the industry.** Legal reforms should include labor rights for sex workers; labor inspections, led by a team composed of sex worker organizations and law enforcement; the introduction of good labor practices for decent sex work, and improvement of occupational safety and health.

2.3. **Ensure that sex workers can effectively challenge employment practices that violate their human rights through employment tribunals and other grievance mechanisms offered by the 2015 Gender Equality Act, the National Human Rights Commission (NHRCT) and the national justice system.**

3. On Challenge 3: Sex workers face abuse, violence, and harassment at the hands of the police and clients

3.1. According to the 2017 CEDAW Committee’s Concluding Observations to Thailand, **investigate and punish individuals who exploit women in sex work, including government officials; and immediately end the practice of violent raids of entertainment venues, entrapment operations and extortion and hold individual police officers accountable for their involvement in such activities and in corruption practices, such as briberies.**

3.2. According to the 2017 CEDAW Committee’s Concluding Observations to Thailand, **provide assistance, rehabilitation, and reintegration programs for women and girls exploited in sex work, in addition to exit programs for women wishing to leave the profession.**
THAILAND UPR III 2021

UPR FACTSHEET

Challenges

For more information, evidence and data, please refer to the references and/or contact:

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