

**Universal Periodic Review of Denmark
38th Session
April - May 2021**

Joint stakeholder submission



That's What She Said

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That's What She Said is a research initiative, established in 2016. That's What She Said seeks to create an inclusive, integrated space for women. We wish to see local women experiencing the benefits of reflection and storytelling—both as a solitary exercise and as a way to commune with each other. We aim to show how strands of knowledge and experience can be passed from person to person. We also want to develop a model for how one idea, one concern, or one theme of discussion can create a shared community. In its existence as a written archive or through a group conversation. Our short-term goal, in other words, is to bring women across the globe together to co-create a history.

and



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The Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Poland, India, Argentina, and South Africa that work together to advance human rights related to sexuality at the United Nation.

Key words: Sexual and reproductive rights, sex work, violence and discrimination.

Executive Summary

1. This joint stakeholder report was developed by That's What She Said and the Sexual Rights Initiative. The report focusses on human rights violations experienced by sex workers in Denmark.

Law and Policy Framework

1. Adult sex work was decriminalized in 1999. However, activities such as soliciting, acting as an intermediary in commercial sex and profiting from another person's engagement in sexual services remain illegal. This includes the logistics of running a brothel, and a brothel is characterized by an owner renting out facilities, organizing work plans, services etc.¹. The effect of this legislation is while sex work per se is not criminalised, it is practically impossible to practice it safely and without stigma and discrimination. The criminalization of these acts has a detrimental impact on sex workers' work and compensation, their physical and psychosocial well-being, and their right to safe and healthy working conditions.
2. Under the current legal framework, sex workers are not able to hire managers, receptionists, security personnel or any other third party to assist them in their business. They are forced to work as sole proprietors as hiring colleagues would require a financial relationship, which is criminalized. Without security staff, for example, sex workers have no back up should a client refuse to pay, breaches the contract in any other way or is violent towards the sex worker. These restrictions also have an impact on the growth potential of sex workers' businesses and can negatively impact on sex workers' right to livelihood.
3. However, criminalizing aspects of sex work does not end sex work. Instead it pushes it underground and creates impunity for violence and discrimination as sex workers will be reluctant to report. Brothels continue to exist and function in Denmark, and sex workers continue to work. The Danish government is aware of this fact as they expect sex workers to register their businesses and pay taxes for their work, essentially accepting them as part of the formal economy. However, sex workers do not have any labour protections, such as sick pay, unemployment benefits, pension etc. Sex workers do not have access to unions to negotiate better working conditions.

Violence and Abuse

4. During the last UPR cycle, Denmark received and accepted the following recommendations:
 - Develop and adopt further measures to prevent and combat sexual violence against women. (Austria)
 - Step up efforts to prevent violence against women and domestic violence. (Azerbaijan)

¹ https://www.legislationline.org/download/id/6372/file/Denmark_Criminal_Code_am2005_en.pdf

- Continue to combat violence against women and girls and develop a comprehensive action plan for the prevention of sexual violence and for ensuring the legal rights of victims of sexual violence. (Finland)
 - Continue progress to increase gender equality and protections for women and girls who encounter violence including enhanced implementation of Denmark's existing legal and policy frameworks. (Australia)
 - Allocate the human and technical resources necessary to strengthen the fight against gender violence at all levels of government and the justice system. (Honduras)
 - Continue its efforts to further mainstream gender equality in the public sphere as well as to combat domestic violence to protect the rights of women in the private sphere. (Thailand)
 - Review its body of legislation prohibiting discrimination on any grounds, and in this regard, expressly prohibit discrimination due to disability, age, religious belief, sexual orientation or gender identity. (Canada)²
 - Continue the strengthening of the comprehensive regulatory framework that prohibits discrimination, including that based on gender, and promote coordination between the competent bodies and facilitate the reporting of such crimes by persons in situations of vulnerability.³
5. Despite accepting all of the above recommendations, Denmark has not made any changes to better protect the rights of sex workers to be free from discrimination, abuse and violence.
 6. Street based sex workers are subject violence and threats of violence by customers about 31 percent of the time compared to only 3 percent in brothels.⁴ The criminalization of aspects of sex work continues to put sex workers in harms way. These statistics would be considered compelling enough to change legislation in any other field of work, but sex workers continue to be subjected to the hostile environment created and perpetuated by the legal provisions.
 7. Further, inability to access to proper workspaces, can add to unsafe working environments for sex workers. As mentioned, the violence is higher under street based sex work. This is particularly concerning under the current pandemic as the lockdown increases the precarity of sex workers, which can create a situation where clients can act with impunity.
 8. The state's failure to address stigma surrounding sex work combined with the criminalization increases the impunity for violence. It is common in Denmark for sex workers to face verbal and physical harassment and abuse as a safe working environment is hard to secure under the current legislation. Sex workers are considered a menace to society. It is also one of the reasons that discourages many sex workers from reporting any violence that they experience and has a chilling

² Accepted with explanation: Denmark attaches great importance to combatting discrimination. All citizens are equal before the law, and public authorities must not discriminate citizens on any ground. Danish law also contains a number of acts on non-discrimination. As regards discrimination based on disability, the Government is currently considering adequate measures. Also, the Board of Equal Treatment is considering complaints of discrimination on a number of grounds. The Board may award compensation and invalidate dismissals.

³ See footnote 3.

⁴ <https://www.globalcitizen.org/fr/content/sex-workers-ambulance-denmark-sexual-violence/>

effect on uptake of services and information from harm reduction initiatives or grassroots organizations.

9. In the Concluding observations on the eighth periodic report of Denmark's 8th Periodic Review of CEDAW, the Committee recommended to enact legislation providing for the collection of data, disaggregated by age, ethnicity, nationality and relationship between the victim and the perpetrator, on all forms of violence against women and establish a mechanism with a clear mandate as well as adequate human, technical and financial resources for the analysis of such data. They also suggested to adopt a legislative framework that explicitly provides for the protection of women's rights to be free from psychological violence, in line with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, to which Denmark is a party. Denmark has failed to extend the implementation of these recommendations to sex workers.

Migrants Rights

10. During the last UPR cycle, Denmark received and accepted the following recommendations:

- Continue working to improve its treatment of migrants and refugees in a transparent manner, and with full respect for human rights, especially those of women and children. (Japan)
- Eliminate discrimination against migrants, and especially migrant women. (Maldives)⁵

11. The following recommendation was noted both in the first and second cycle:

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Algeria, Honduras, Azerbaijan, Benin, Iran, Egypt, Guatemala, Ecuador, Uruguay, Turkey, Kyrgyzstan, Sri Lanka and others).

12. Sex work is deeply intertwined with the immigration/migrant debate in Denmark. Many of the street-based sex workers in Copenhagen and other big cities are migrants. With the election of a new government in June 2019, funding was drastically cut from many sex workers organizations. The City of Copenhagen falsely and inaccurately stated that they were promoting "human trafficking and illegal migrant work". Conflation of sex work and trafficking renders all measures to tackle trafficking ineffective.

13. In the Concluding observations on the eighth periodic report of Denmark's 8th Periodic Review of CEDAW, the Committee expressed concerns about discrimination against migrant women, including intersecting forms of discrimination on the basis of sex and other grounds such as ethnic or religious background. The State was recommended to take measures to eliminate

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discrimination, including intersecting forms of discrimination, against migrant women, both in society at large and within their communities, and promote positive images of women belonging to ethnic and religious minorities.

14. Denmark has failed to take these recommendations into consideration when applying them to migrant sex workers. In addition to unsafe working conditions and violence, migrant sex workers have to deal with discrimination and racism. The Danish government continues to cut funding from organizations supporting sex workers and they also continue to cut funding for organizations supporting migrants.

Recommendations for action

1. Decriminalize all aspects of sex work, including procuring, keeping a brothel, and pimping.
2. Fully incorporate sex work into the formal economy. Ensure participation in unionization, and access to social security benefits like pensions and unemployment benefits.
3. Allocate funds to organizations supporting sex workers, particularly sex-worker led organisations.
4. Confront anti-migrant rhetoric and provide tangible support to migrants, especially migrants working as sex workers.