

**Universal Periodic Review of Rwanda
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The African Sex Workers Alliance (ASWA) is the Pan African alliance of sex worker-led organisations formed in 2009 with membership from 33 countries. The organisation’s mission is to amplify the voices of sex workers as well as advocate for the health and human rights of the diverse community of sex workers working and living in Africa.

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 Nations.

Key Words: sexual and reproductive health and rights; sex work; sex workers' rights; criminalization of adult sex work; violence against sex workers; gender-based violence; sexual and reproductive health services; HIV and AIDS

Executive Summary

1. This report has been jointly prepared by the African Sex Workers Alliance (ASWA) and the Sexual Rights Initiative (SRI). It seeks to highlight the existing and ongoing human rights violations against sex workers due to restrictive and punitive laws and policies in Rwanda. It also outlines Rwanda's commitment to provision and protection of rights through various national and international mechanisms, including the previous cycle of the Universal Periodic Review (UPR) and the relevant recommendations.
2. The Constitution of Rwanda guarantees enjoyment of human rights and freedoms on the principle of equality of all Rwandans before the law as well as equality between men and women.¹ This is reinforced through the ratification of numerous international and regional human rights treaties. The Government of Rwanda has committed to protect and safeguard the human rights of all of its citizens. However, sex work is seen as a moral issue: the moralistic view that sex workers are choosing to "defile" their bodies continues to inform legal, policy and public systems, resulting in inequitable treatment within society, and health and judicial systems.
3. The criminalization of sex work in the Penal Code² restricts sex workers' rights to bodily autonomy and bodily integrity. Due to the prevalent moralistic perspective of sex work, lawmakers have opposed the call to recognise sex work as work, and have refused to repeal the punitive laws that contradict the government's otherwise progressive policies on healthcare and economic development.
4. Despite the gross violations of human rights endured by sex workers, there is little scope for challenging policies and practices since the law also deters any advocacy to recognise sex work as work. The right to mobilise and organise for sex workers is highly restricted by the laws governing non-governmental organisations,³ which gives the government authority to vet, approve and monitor activities of the civil society. Besides law and policy, social attitudes and behaviours further exacerbate stigma, discrimination and violence against sex workers.
5. This submission delves into the following areas of concern: criminalizing and punitive legal and policy framework; violations of the right to health, restrictions on organizing and advocacy; and stigmatization and discrimination of sex work and those associated with sex work. The relevant UPR recommendations from the last cycle (2015) and recent remarks from other UN mechanisms are referenced throughout the submission.

¹ *Rwanda's Constitution of 2003 with Amendments through 2015* at https://www.constituteproject.org/constitution/Rwanda_2015.pdf?lang=en.

² *Organic Law Instituting the Penal Code*, Article 205 at <https://www.ilo.org/dyn/natlex/docs/SERIAL/93714/109657/F1967095662/RWA-93714.pdf>.

³ *Law No 5/2012* at http://www.rgb.rw/fileadmin/Key_documents/Law-RGS-Gazette/LAW_No_052012_OF_17022012_GOVERNING_THE_ORGANISATION_AND_FUNCTIONING_OF_INTERNATIONAL_NON_GOVERNMENTAL_ORGANISATIONS.pdf; *Law No 4/2012* at <https://www.ilo.org/dyn/natlex/docs/SERIAL/98241/116827/F-169221275/RWA-98241.pdf>.

Criminalizing and Punitive Legal and Policy Framework

6. Policy and law makers in Rwanda view sex work as a personal choice to “defile” their bodies. This justifies the current regressive laws and structural interventions striving to punish, rehabilitate and reform. Currently, sex workers are subjected to imprisonment and exorbitant fines, and there is even a push for harsher punishment from some lawmakers. Although focused on deterring sex work, these punitive measures force sex workers to go underground and not seek health information and services.
7. The country’s Penal Code imposes harsh punishment for anyone identifying as a sex worker. Article 205 of the Penal Code provides that: Any person who engages in prostitution shall fulfill, for a period not exceeding one year, one or more of the following obligations:⁴
 - Not to leave territorial limits determined by the Court;
 - Not to go to certain places determined by the Court;
 - To be subjected to surveillance measures;
 - To seek medical treatment; and
 - Periodically report to administrative services or authorities determined by the Court.
8. A person who violates any of the obligations set out in Article 205, is liable to a term of imprisonment of at least three (3) months but less than six (6) months; if a person subsequently commits prostitution as provided under Paragraph 2 of this Article, they shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of 50,000 to 500,000 Rwandan francs or one of these penalties.
9. Criminalization of sex work makes it extremely hard for sex workers to earn a liveable income, organise as sex workers, and access basic services such as healthcare and housing. The prevailing legal and social environment limits access to housing as landlords can refuse to rent properties to sex workers. As such, sex workers are forced to live in communal houses or brothels that lack basic necessities like water and proper sanitation. They also risk being prosecuted for living in brothels as it is criminalized in the Penal Code.
10. Generally, women sex workers face multiple and intersecting forms of discrimination and oppression based on their gender, occupation, marital status, class among other grounds. Female sex workers have often had less access to formal education and information. Child bearing is only viewed as acceptable within a monogamous, heterosexual, two-parent family unit, and women who bear children outside this (unmarried; without a husband) are disparaged and isolated. Sex workers who have children are often pressured to “return” the children to their fathers. They are seen as a disgrace and rarely supported by their families. ***[UPR Recommendation 133.11 by Algeria: Continue efforts for the emancipation and empowerment of women; UPR Recommendation 133.12 by Angola: Continue the implementation of positive measures in favor of gender equality to facilitate their access to justice and education].***
11. Despite international outcry against sex worker “rehabilitation,” Rwanda has introduced a program that provides special income-generating activities to “help” sex workers leave the industry. This strategy assumes that sex workers can be persuaded to adopt alternative ways of providing for themselves and their children. There is also a “transitional centre” for sex workers and other “social

⁴ *Organic Law Instituting the Penal Code, Article 205 at*

<https://www.ilo.org/dyn/natlex/docs/SERIAL/93714/109657/F1967095662/RWA-93714.pdf>.

deviants,” aimed at facilitating “transformation.” However, detainees in these centres are beaten on a regular basis, and most of the beatings are carried out by other detainees, known as “counselors,” whom the police have put in charge of the center’s internal security.⁵ **[UPR Recommendation 134.48 by Italy: Investigate all allegations of torture and ill-treatment during interrogations in some detention facilities by the police and security forces.]**

12. Sex workers are often victims of assault by Inkeragutabara (the reserve force of the Rwanda Defence Forces), arbitrary arrests by the police, taken to police stations, and thereafter transferred to Gikondo Transit Centre for detention. Local authorities justify the arbitrary and unregulated detention at Gikondo Centre as a measure to reduce the number of “idle people” wandering in the street. This measure is allegedly proposed to be a transit centre for vocational training and reintegration into the Rwandan society. These cases are also typically accompanied by extortion through the solicitation of bribes in order for the sex workers to secure their release.⁶ **[UPR Recommendation 133.28 by Singapore: Further strengthen efforts to ensure full and unhindered access to justice for all Rwandans, particularly through policies and laws designed to combat corrupt practices at all levels.]**
13. Traditionally, the sentence imposed on perpetrators of rape often consists of a compensation payment, mostly to incentivize suspension of the right of the victim’s family to private retaliation. For example, a culprit offers beer or money to the victim and her family and the situation is settled when she accepts the compensation. This tendency to monetarily compensate the victim is prevalent in Rwanda as rape is considered an infringement on the victim’s integrity and decency, rather than breaking of a law requiring redress in the formal justice system. However, rape of sex workers is rarely regarded as a crime or an infringement on their decency. This makes sex workers vulnerable to violence from their clients and police officers, with no available options of redress or justice. **[UPR Recommendation 133.24 by Singapore: Consider further strengthening policies and laws to put in place an effective and holistic system towards combating violence against women and ensuring justice for victims; UPR Recommendation 133.25 by Uganda: Build institutional capacity for effectiveness in the prevention of and response to gender-based violence.]** Criminalisation also makes it difficult for sex workers to negotiate for use of protection and better payment.
14. The Penal Code Articles related to sex work breach all basic human rights: the right to dignity and the right to privacy as sex workers are constantly surveilled; the right to equal protection under the law and the right to non-discrimination as there are restrictions and obligations for women engaged in sex work that are not applicable to their clients or perpetrators of other sexual related crimes, such as child defilement, rape and marital rape; the right to equal protection of the law by omitting determination of guilt by the court before being subjected to measures of surveillance and mandatory health seeking; the right to bodily integrity as female sex women are at an increased risk of sexual violence including rape, from police, clients and strangers; and the right to liberty and security of person, by subjecting sex workers to arbitrary and unlawful arrest.⁷

⁵Interview: The Price Paid in Kigali to Keep the City’s Image Pristine | Human Rights Watch. Human Rights Watch. <https://www.hrw.org/news/2015/09/24/interview-price-paid-kigali-keep-citys-image-pristine>.

⁶ *A landscape analysis of the human right of sex workers and LGBT communities in Rwanda*, Global Philanthropy Project at https://globalphilanthropyproject.org/wp-content/uploads/2016/03/Rwanda-Baseline_ENG.pdf.

⁷ *Developing human rights-based strategies to improve health among female sex workers in Rwanda*, Health and Human Rights Journal at <https://www.hhrjournal.org/2013/08/developing-human-rights-based-strategies-to-improve-health-among-female-sex-workers-in-rwanda/>

Violations of the Right to Health

15. Protecting the health outcomes of Rwanda's sex workers (and with them, the broader population) does not demand intensified repression, but, on the contrary, a comprehensive agenda of medical and social support to improve sex workers' access to healthcare, reduce their social isolation, and expand their economic options. **[UPR Recommendation 133.41 by Cuba: Continue to invest in the development of the health system, which results in further progress on the right to health for the entire population.]**
16. The country's National Strategic Plan on HIV/AIDS (2009-2012) aims to reach 60 percent of sex workers with HIV prevention programmes. However, many sex workers are afraid of accessing healthcare and remain underground for fear of arrest and forceful detention in rehabilitation centers.⁸ Further, sex workers are viewed as immoral and are often isolated. They are seen as sexual and social deviants, and carriers of sexually transmitted infections such as HIV and syphilis. Sex workers are portrayed as pathetic victims, cursed, family destructors, and as if they have no use to society - as condemned people.
17. Despite Rwanda's successes with preventing 70% of new infections in the general population through nation-wide couples' testing in antenatal clinics, prevention and timely treatment in key populations including female sex workers are lacking. The prevalence of HIV – including many new cases – and STIs among female sex workers in Kigali is high, and condom and contraceptive use are low.
18. Pregnant sex workers experience difficulties in accessing prenatal and postnatal care since in some government facilities they are expected to be accompanied by their partners. This is another reason why they cannot access HIV interventions through couples' testing. This discourages sex workers to seek vital health services. **[UPR Recommendation 133.13 by Argentina: Continue its efforts in the area of gender equality to eradicate traditional patriarchal stereotypes and gender inequality; UPR Recommendation 133.14 by Chile: Strengthen measures to eradicate patriarchal stereotypes against women, including through education and awareness programs.]** Sex workers also report mistreatment and discrimination by health workers. In case of refusal of services and public exposure of their status, sex workers have no form of redress since there are no laws to protect them.
19. There is a severe lack of services specific to transgender sex workers, and they are often forced to turn to the unregulated and illegal market for health related needs and services. Unable to cope with unresponsive and unaccommodating health and societal systems, they often resort to self-medicating and other harmful coping strategies to address the negative impact of discrimination on their mental health and wellbeing.
20. For the past 11 years, Rwanda has had a national health insurance scheme that is said to cover 92% of the population. To access health services through this insurance, every person is expected to pay \$2 per year upfront. Few sex workers are aware of this scheme. Further, it may be impossible for sex workers to access not only because of the money requirement, but also because they may be afraid of sharing their details during registration for fear of being tracked and forced to rehabilitation/transitional centres. **[UPR Recommendation 134.78 by Mauritius: Continue to**

⁸ A landscape analysis of the human right of sex workers and LGBT communities in Rwanda, Global Philanthropy Project at https://globalphilanthropyproject.org/wp-content/uploads/2016/03/Rwanda-Baseline_ENG.pdf.

implement health policies that guarantee the right to health for all ; UPR Recommendation 133.36 by Bolivarian Republic of Venezuela: Further strengthen its successful social plans and programs in favour of its people, with a special emphasis on the areas of education, nutrition and health.]

Restrictions on Organizing and Advocacy

21. Laws governing NGO in Rwanda, including Law 04/2012 and Law 05/2012 are frequently used to interfere, undermine and freeze the activities of independent human rights and civil society organisations. This issue has been acknowledged and addressed in the ***Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai (16 September 2014).***⁹ ***The Special Rapporteur recommended that both Law 04/2012 and Law 05/2012 should be amended in full consultation with civil society. They also recommended allowing unregistered organizations to operate; making the registration process simpler and faster (similar to private companies); ensuring that government authorization or presence is no longer required to hold private meetings; and partnerships between government and civil society should be strictly voluntary rather than compulsory.***¹⁰
22. Current government policies support rehabilitation of sex workers and deter any advocacy to recognise sex work as a legitimate form of work. Sex workers right to mobilise and organise is also highly restricted, and requires organisations to apply for temporary licenses that must be renewed yearly and provide their financial projects for five years. This discourages sex workers from seeking legal recognition or even open bank accounts for fear of being surveilled. ***[UPR Recommendation 134.58 by Netherlands: Increase the space for civil society in Rwanda. A first step should be to simplify regulations for NGOs, making it easier to register, in order to support a thriving civil society which will contribute to Rwanda's progress and prosperity (Netherlands); UPR Recommendation 135.21 by Ireland: Create and maintain, in law and in practice, a safe and enabling environment, in which human rights defenders, journalists and civil society can operate free from hindrance and insecurity, in accordance with Human Rights Council resolutions 22/6, 27/5 and 27/31.]***
23. The government is intolerant of reports of human violations and there are restrictions on investigating and publishing findings. Further, there is no known consultation have taken place between the government and sex workers when new laws and policies are being put into place. The government's design and implementation are top-down, a method that has led to negative effects of law and policies on the target communities. For example, the special income-generating activities program for sex workers is viewed by the community as a surveillance and a morality project. The program is not cognizant of the needs of sex workers, their skills or market forces.
24. At present, sex worker organising is almost invisible. Often, sex workers organise informally in small groups, but not focusing on provision of services or advocating for their rights. These groups are mainly relied upon for support to deal with social isolation. For sex workers to register an organisation, most have to hide under the guise of women empowerment. Alternatively, they may work under LGBT-led groups, which are allowed to run some programs on sex work, but mainly on HIV.

⁹ *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29/Add.2.*

¹⁰ *Ibid.*

25. Many NGOs continue to support rehabilitation of sex workers. For example, UNAIDS provides financial and technical support to Rwanda National Police. One of their goals is to encourage sex workers to leave the industry. The *Abahindutse* or those who quit sex work, are trained and enlisted in community policing focused on reporting crime. This has intensified surveillance on sex workers, forcing them to go further underground. This and other rehabilitation interventions encroach on the liberty of sex workers to choose a means of livelihood.

Stigmatization and Discrimination

26. As sex work is viewed from a moralistic view, they continued to be stigmatized in their community, religious spaces, and even in civil society. Sex workers say religious leaders consider sex work as an abomination that will lead to the “end of the world.” Being sex workers, they are not allowed to have any role in serving the church. Although the Faith Victory Association has embarked on a three-year campaign to fight HIV/AIDS among sex workers, their focus is on “rehabilitation:” “The campaign with sex workers seeks to find alternative economic activities away from [sex work].”¹¹
27. The media refers to sex workers as *Indaya* or prostitutes. They are viewed as unworthy of respect and dignity. The media paints sex workers as sexual and social deviants, and carriers of sexually transmitted infections.
28. Children of sex workers are regarded as outcasts and face difficulties integrating in their communities. This cyclical deepening of social exclusion has intergenerational effects. Intergenerational transmission of risks is shown, for example, through the problems that children of sex workers face in succeeding at school due to issues such as discrimination on the part of teachers and classmates.¹² There is also a high rate of illiteracy in local languages, English and French among female sex workers and it creates a further problem of knowledge transmission to their children. One sex worker said: “Sometimes, my child comes back from school being very sad because of how he has been treated by the other pupils. I don’t have enough to give him all he needs, so that he could be like the other children, who have fathers who can provide for them. All this affects our children...”
29. When sex workers who are mothers are arrested, their children are often left without guardians and destitute. Some become street beggars making them vulnerable to exploitation and also arrests. Those arrested end up in the Gikondo detention center infamous for its brutality.
30. Although the law affects all sex workers on a larger scale than other citizens, transgender sex workers face additional challenges because there is no social recognition of dynamic gender beyond those of biological sex as male or female. They thus face heightened discrimination, stigma and even violence from the police and their clients. This leads to most of them working underground and often in very precarious conditions. Transgender sex workers face double the stigma and discrimination, including for services like housing. They have very limited access to rights based, affirming health services, as most of the available health services are for men who have sex with men and female sex workers. The

¹¹ Criminalization of sex work hinders HIV prevention efforts. The New Humanitarian.

<https://www.thenewhumanitarian.org/report/94231/rwanda-criminalization-sex-work-hinders-hiv-prevention-efforts>.

¹² *Developing human rights-based strategies to improve health among female sex workers in Rwanda*. Health and Human Rights Journal. <https://www.hhrjournal.org/2013/08/developing-human-rights-based-strategies-to-improve-health-among-female-sex-workers-in-rwanda/>.

legal system, including legal aid is inaccessible for transgender sex workers and they often have no available forms of redress in case of violence or discrimination. ***[UPR Recommendation 133.9 by Egypt: Continue enhancing the process of combating different forms of discrimination, particularly by facilitating access to justice for all Rwandan people.]***

31. Some Rwandan lawmakers continue to advocate for a more punitive approach to tackling sex work. For example, on September 23, 2009, the Rwanda Minister of Gender and Family Promotion urged all Rwandans to cooperate in the fight against the “immoral behaviors,” and called on local leaders, police and other security agents to crack down the culprits. This was during a talk with university students on sex work and poverty.¹³ These societal views confirm the importance and timeliness of grappling with sex work issues from a human rights perspective.¹⁴

Recommendations for Action

32. Amend the section on “prostitution” in the Penal Code to decriminalize all voluntary sex work by adults, including decriminalization of “discouraging efforts to rehabilitate prostitutes” (Article 205).
33. Amend Law 04/2012 and Law 05/2012 in meaningful consultation with civil society organizations to remove strict restrictions on registration and government presence and surveillance.
34. Create mechanisms in consultation with sex workers to eliminate and address unlawful arrests and detention; state-sanctioned violence; and impunity for acts of violence against sex workers. Enact strict non-discriminations laws for protection of sex workers.
35. Close all “rehabilitation” and “transitional” centres guising as facilities to detain and punish sex workers.
36. Make Rwanda’s national health insurance freely available to all sex workers. Eliminate strict registration processes; and enact confidentiality policies with severe consequences if breached.
37. Create mechanisms in meaningful consultation with sex workers to monitor and provide training for health care workers on human rights-based approach to provision of services, especially for transgender sex workers. Ensure all health services, including sexual and reproductive health services are available in a confidential, respectful and non-judgmental manner.
38. Create supportive policies and political actions in meaningful consultation with sex workers to promote and upholds the rights of sex workers. This includes integration of sex workers in government programs to stem social inclusion, and these policies should extend to community and religious leaders to eliminate the stigma related to sex work throughout the country.

¹³EMPOWER THEM, SAVE LIVES PROJECT, Change Makers at <https://www.changemakers.com/economicopportunity/entries/empower-themsave-lives-project>.

¹⁴ *Developing human rights-based strategies to improve health among female sex workers in Rwanda*, Health and Human Rights Journal at <https://www.hhrjournal.org/2013/08/developing-human-rights-based-strategies-to-improve-health-among-female-sex-workers-in-rwanda/>.

39. Create mechanisms in meaningful consultation with sex workers, to disseminate health information to and for sex workers. This should include information on sexual and reproductive health and rights, and not just HIV-related services.
40. Create spaces for consultation, collaboration, evidence-based research and information sharing by groups supporting the rights of sex workers, for better understanding of their challenges and to strengthen advocacy.