



# RedTraSex

Red de Mujeres Trabajadoras  
Sexuales de Latinoamérica  
y el Caribe

## SEX WORK AND INSTITUTIONAL VIOLENCE: VIOLATION OF RIGHTS AND ABUSE OF POWER.

Research with female sex workers from 14  
countries in Latin America and the  
Caribbean.

### COSTA RICA



La Sala Association





# TOC \o "1-2" \h \z \u **INSTITUTIONAL VIOLENCE AGAINST SEX WORKERS**

## **National Report Costa Rica**

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# 1. FOREWORD

The following report is the result of the qualitative research on ***Sex Work and Institutional Violence: Violation of rights and abuse of power towards women sex workers. Research in 14 countries in Latin America and the Caribbean*** specifically the case of San José, Costa Rica.

This document gathers the main forms of violence to which we, women sex workers, are subjected in the context of josefino, with the aim of making visible and finding possible ways to solve these problems and find the end to so much violence.

One of the aspects that stands out in the following document is that Costa Rican legislation does not prohibit sex work, nor does it explicitly make it legal. This gap leaves us sex workers without legal support, which means that we are exposed to exploitation, precariousness, discrimination, and police and institutional arbitrariness, making it impossible for us to fully enjoy our human rights.

Many of the participants in this study stated that much of the violence they experience on a daily basis is institutional and that although on several occasions they recognize that they are being violated through an illegal act, their hands are tied because they could be exposed to more violence if they make use of the law to defend themselves.

In this context, a state response is urgently needed to recognize sex work as work, to ensure that women sex workers can live and work with dignity, that we are recognized as citizens with full rights, that we have access to public services without being discriminated against, and that spaces for dialogue are opened with both civil society and government institutions to demystify sex work and promote a more humanized view of women who do it voluntarily.

Therefore, we share with you the following pages so that the voice of the oppressed women of Latin America may resound, women who are not alone, who recognize the power of organization, knowledge and the struggle for our rights. We hope that every day more and more people understand and join the struggle of women sex workers and that step by step we build a fairer present for all of us.

**La Sala Association  
COSTA RICA**

## 2. INTRODUCTION

Previous research has shown that the legal and political context of each country has a direct influence on the forms and conditions in which sex work is practiced (RedTraSex, 2013). The absence of regulations governing this activity generates a framework conducive to police repression, institutional violence and precarious working conditions, which results in the creation of a siege of clandestinity around ST that increases stigma, discrimination and increases the vulnerability of female sex workers (hereinafter, WSWs) to HIV/AIDS.

In order to fill a knowledge gap, RedTraSex planned this study in order to have a description and systematization of the situations of institutional violence experienced by sex workers in the 14 countries where RedTraSex is present. In this sense, the study aims to analyze the situations of vulnerability to which female sex workers are exposed in light of the normative framework and legislation regulating sex work, focusing on situations of abuse of authority and institutional violence by security forces and justice agents.

The specific objectives that guided the research are:

1. Describe the legal and regulatory framework affecting sex work and the conditions under which it is exercised and identify the specific regulations to which state officials appeal to proceed in relation to WSWs.
2. Describe the procedures carried out for the implementation of protocols or the legal framework related to sex work.
3. Describe how these procedures affect the exercise of rights of female sex workers.
4. Identify the actors involved in the implementation of the protocols or regulations, specifying roles, tasks they are responsible for and the regulations to which they appeal in their actions.
5. Describe situations of abuse of authority, institutional violence and violation of the rights of WSWs by security forces or members of the judicial system.
6. Identify opportunities and strategies for the defense of their rights through the articulated work with State agencies and the political participation of WSWs.
7. Identify changes in practices that need to be implemented for the fulfillment of rights in both the security forces and the judicial system.

The research methodology was qualitative, with analysis of the following primary and secondary sources:

- 1) Regulations and legislation related to sex work.
- 2) Two focus groups with female sex workers, differentiated by work space (public or closed).
- 3) Interviews with national coordinators to complete and contextualize the information gathered.

The data collection and systematization work was carried out from June to August 2016, based on standardized guidelines developed at the regional level.

This report presents the results of the investigation at the national level. Thanks to this research work, we have precise information on the different situations of institutional violence that our colleagues go through on a daily basis. With this evidence, we will work intensively to eliminate this type of violence, and to propose public policies that improve the working conditions of female sex workers.

We thank the sex workers who participated with the testimony of their experiences, thus collaborating in the construction of knowledge and the possibility of influencing to transform these situations of daily injustice.

### 3. LEGAL CONTEXT OF SEX WORK IN COSTA RICA

The main thing that stands out about Costa Rican legislation on sex work is that it does not prohibit it. In fact, it is a permitted activity according to the principle of legality, which establishes that people can do anything that is not expressly prohibited. This applies in the case of adults, since in the case of minors, all activities related to sex work are considered sexual exploitation and the adults involved are sanctioned.

Although current national legislation does not directly refer to sex work, it does recognize its existence by criminalizing the activities of procuring and pimping.

**In this regard, the Penal Code in force establishes:**

**Article 169.- Pimping.**

Whoever promotes the prostitution of persons of either sex or induces them to engage in it or keeps them in it or recruits them for that purpose, shall be punished with imprisonment for a term of two to five years. The same penalty shall be imposed on anyone who keeps another person in sexual servitude<sup>1</sup>.

**Article 171.- Rufianería**

It shall be punished with imprisonment from two to eight years, whoever, coercively, makes himself be maintained, even partially, by a person engaged in prostitution, exploiting the profits from such activity.

**The penalty will be:**

1. Imprisonment from four to ten years, if the offended person is under thirteen years of age.
2. Imprisonment from three to nine years, if the offended person is older than thirteen but younger than eighteen years of age<sup>2</sup>.

The same Penal Code mentions other activities with sexual content but which become a crime only when they involve persons under 18 years of age. This would imply that these are activities that can be carried out by adults.

It follows from the above that sex workers do not face - based on their work - any legal restriction or impediment compared to any other citizen. The only situation in which the legislation mentions them is with the objective of protecting them from pimping and roguery, that is, to protect the sexual freedom of individuals and sex workers in particular.

Historically, however, national legislation has linked some sex work activities to the crime of vagrancy. Female sex workers shared the category of vagrants with criminals, frequent customers of gambling houses and taverns, unwilling workers and beggars in one of the country's first legal instruments. As cited in Law No. 19 of 1867:

**Article 1° - They are lazy:**

*...5. Prostitutes or [SIC] public women, harlots in the proper sense of the word and known as such, who do not justify their being required to be by authority, who are engaged in some honest occupation sufficient to provide for their subsistence, or who possess sufficient honest resources to live on.*

*Although with obvious inaccuracies, Costa Rican legislation criminalized vagrancy for many years and included sex workers in this category. In 1917, Law No. 9, called the Vagrancy Law, specifies the behaviors that typify vagrancy. In Article 1, subsection 8, it reads:*

**Article 1: They are lazy:**

*8.-Women who scandalize with their bad habits or who are habitually found in gambling houses, taverns or suspicious places.*

<sup>1</sup> Thus amended by Article 1 of the "Law against Sexual Exploitation of Minors"; Law No. 7899 of August 3, 1999.

<sup>2</sup> Thus amended by Article 1 of Law No. 8590 of July 18, 2007.

Further on, in this same law, it is stated:

*"Article 5.-The women mentioned in clause 8 of the first article, if they are of age, shall be dedicated, in the House of Women's Confinement, to suitable work for a term of no less than three months and no more than one year. If they do not show good will for the work, or if they are disobedient or insubordinate, they will be sent to Talamanca or another distant point, for double the time remaining to serve their sentence."*

This law remained in force and without modifications until October 1965, when the Law against vagrancy, begging and abandonment, Law No. 3550, which in its Article 2 indicated:

**They will be guilty of vagrancy:**

- a) Persons who, having the aptitude to work in useful occupations compatible with their age, sex, state and condition, and lacking known lawful means to provide for their subsistence, do not do so;
- b) Those who are habitually found during working hours in bars, canteens, places of gambling or prostitution or in centers of perversion, and who have no known occupation; and
- c) Women who are scandalous by their immoral conduct, who are habitually found in gambling and prostitution centers, taverns and other similar places; or who regularly practice bad habits in suspicious places.

The relationship of subsection c) with sex work becomes even clearer when the then Minister of Labor defends this project before the Legislative Assembly. Some deputies question the use of "suspicious places" because they consider it imprecise and because any person could eventually be in one of these places. In this regard, the aforementioned Minister alleges:

*"We put suspicious places because we know that they are places where women stand in a suspicious attitude, but we know that they are used by these women for their business....". 4*

**In the same appearance, the Minister of Labor affirms:**

*"...we must confess that this is not intended to eradicate prostitution, which is the oldest custom of mankind, nor is it a deadly attack on the situation of drunks, but a social issue, it is not intended to eradicate prostitution, what we are dealing with is the social situation of the street.... more appropriate rules must be established."*

In 1973, Law 3550 was reformed, specifically in its Article 2, paragraph a), with the objective of avoiding that an unemployed person who wishes to work could be considered to be in default of vagrancy. Although practically in disuse, Law 3550 remained in force in Costa Rica until 1994, when it was declared unconstitutional. At that time, the substantive analysis for the declaration of unconstitutionality was concluded:

*"Consequently, it is appropriate to evacuate the consultation indicating that articles 1, 2, 3, 4, 5, 10, 16 and 20 of the Law against Vagrancy, Mendicity and Abandonment, number 3550, of October two thousand nine hundred and sixty-five, are unconstitutional for being contrary to articles 28 and 39 of the Political Constitution". In synthesis, the text of the sentence indicates that the right to freedom must be interpreted in a broad sense, so that people are not obliged to use our freedom to perform socially and morally desirable activities, it is sufficient that the actions do not constitute crimes. Textually, "not all conduct that harms morals, public order or third parties, is susceptible of being punished, but only those that the legislator has expressly provided for in the law".*

A close relationship can be observed according to legislation between women's sex work and vagrancy, which in practice has signified a long legal tradition that has allowed the detention of women sex workers, even though sex work as such is not prohibited. Despite the fact that such legislation was declared unconstitutional more than twenty years ago, the fact is that in practice the women sex workers participating in the focus groups indicate that they are frequently detained in the streets or workplaces by police officers who use the argument of vagrancy as a pretext for detention.

*3 Law No. 19, Define penalties for vagrancy, trespassing, ill-treatment, drunkenness, prohibited games, prostitution, theft, domestic services and food denial. Online version, accessed on 30/06/2016: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/normas/nrm\\_article.aspx?param1=NRA&nValue1=1&nValue2=38301&nValue3=0&nValue5=197792&strTipM=FA](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/normas/nrm_article.aspx?param1=NRA&nValue1=1&nValue2=38301&nValue3=0&nValue5=197792&strTipM=FA) Underlining does not belong to the*



The women consulted repeatedly indicate (mainly when working in public spaces) that they have been stopped by the police on the grounds of vagrancy. When asked what excuses the police use to stop them, they respond: "drunkenness, fights and, mainly, vagrancy".

This occurs despite the fact that some of them are clear that the old vagrancy law is no longer in force. In fact most of the participants say they know that many of the actions of the police are illegal (arbitrary arrests, searches of their bags and personal belongings, retention of their identity documents), but they fail to identify which law(s) specifically protect them from these abuses.

It is important to indicate that the fact that the women participants do not identify legal resources that protect them from possible abuses does not mean that the resources do not exist. Women could report the crime of abuse of authority and deprivation of liberty to the Public Prosecutor's Office, but they could also channel their complaint through administrative channels through the Judicial Inspection of the Judiciary or the Ministry of Public Security. Likewise, it can also use mechanisms of control of constitutionality such as Amparo and Habeas Corpus. When the conflict is with an official of the Municipal Police, the complaint must be filed with the Human Resources Department of the Municipality of San José. These remedies could also protect women from the invasive and arbitrary searches they say they frequently suffer. This because *"with regard to the search, Article 189 of the Code of Criminal Procedure establishes that the police may carry out a personal search, whenever there are sufficient grounds to presume that someone is hiding belongings among his clothes or that he has objects related to the crime attached to his body."* In other words, the search is only appropriate when there is tangible evidence of the prior commission of a crime, which does not seem to be the case in the situations described by the women.

Other important aspects that are regulated by this article of the Code of Criminal Procedure are the conditions under which they must be carried out that searches, for example, must be carried out in front of a witness who is not part of the police, searches of women must be carried out by female officials and that a record must be drawn up.

However, in addition to being unaware of legislation that could protect them, the women participants say that relying on legislation could expose them to further abuse and mistreatment by the police.

**T1:... If you say that to a policeman, they beat you up....**

**T2: Uyy yes, that's another one, if you knew, you would say no, they can't take my ID card. They'll take me away faster!**

**(MTS, public space, Costa Rica).**

On the other hand, taking up the issue that sex work is not clearly regulated as a job in national legislation; it has as one of its main consequences the impossibility for sex workers to have access to labor rights and social security benefits from their work, such as unemployment, Christmas bonus, disability coverage, the possibility of receiving a pension, paid vacation, liquidations, etc. Sex workers who work in private premises, for example, have the same responsibilities (schedules, bosses, etc.) as other workers, but do not obtain any of the labor rights in return because their occupation is not formally considered a job and, in addition to this, the lack of recognition exposes them to the multiple forms of violence that are reviewed throughout this report.

4 Minutes of the session of the Social Affairs Committee of the Legislative Assembly, September 21, 1964. Online document accessed on 30/06/2016: <http://expedientes.asamblea.go.cr/eIntegrator31/document.aspx?doc=8364>

5 Idem. / 6 Ruling: 07549. Case file: 92-000682-0007-CO. Date: 22/12/1994. Time: 04:42:00 p.m. Issued by: Constitutional Chamber. It is fiel copy of the original - Taken from the Costa Rican Legal Information System on: 1/7/2016 11:37:07 a.m. / 7 Ibid.

8 Article 331 of the Penal Code typifies Abuse of Authority as follows: It shall be punished with imprisonment from three months to two years, the public official, who, abusing his position, orders or commits any arbitrary act to the detriment of someone's rights.

9 Article 191 of the Penal Code. Deprivation of liberty without profit. It shall be punished with imprisonment from six months to three years to the one who, without profit motive, deprives another of his personal liberty.

10 When the personnel involved work for the Judicial Branch.

11 When the personnel involved work for the Public Force as indicated in Circular No. 17-2004.

12 Solano, José. *Las requisas policiales en la vía pública: defensa jurídica frente a la represión*, 2013.

## 4. PROFILE OF SEX WORKERS PARTICIPANTS

Ten women participated in the focus group with sex workers working in public spaces and eight women participated in the focus group with sex workers in closed spaces. Both sessions were held at the facilities of the La Sala Association.

The average age of women working on the streets is 55 years, while the average age of women working in enclosed spaces is 34 years.

Women who work on the streets have an average of five children, while their female counterparts in enclosed spaces have an average of two children. This is clearly related to the fact that they are much younger women (the latter).

In the case of the group of street workers, in 9 out of 10 cases they are the main breadwinners in the household. In contrast, only half of the women who work indoors are the main breadwinners. Most of the women in the first group are single or divorced/separated, while the second group is dominated by single women or women in a cohabiting relationship. The average number of hours worked per week is, however, the same: 35 hours.

As the participants in the group of women working on the street are significantly older, they also have much more time to practice the profession. That added to the fact that the police seem to intervene less in closed premises could explain why women in closed spaces report having few conflicts with it. This is related to the fact that the police, as will be seen below, appear as the main rapist and abuser (out of every 10 women who say they have been victims of some kind of abuse, 8 say it was the police who raped them).

In both groups, of every ten women who agreed that they had suffered abuse or violations of rights, six said they had never filed a complaint. More than seven out of ten believe that sex workers never report the violations to which they are subjected. Fear is the main reason for not filing a complaint.

## 5. RESULTS

### Situations of institutional violence and discrimination against female sex workers

The WSWs who work mainly in the streets or public spaces frequently have encounters with members of the security forces and municipal police. In the midst of these encounters, they have established conflicts that manifest themselves in arbitrary detentions and searches, insults, threats, and even cases of gang rape were mentioned. In San José (the area where the focus group participants work), conflicts even occur on a personal basis between certain police officers with some specific female sex workers. Thus, the negative experiences expressed by WSWs have much to do with the figure of the different police forces.

"The police abuse you. You have to take out everything you have in your bag and throw it there in the middle of the street for them to see because they think you are on drugs or who knows what, and no matter how much you tell them that you are not a drug addict or use drugs, they always insist.

Besides, they will grope you there in the middle of the street, even the police, the women will grope you there in the middle of the street in front of everybody, they pass by little kids and where there are people they don't care... that's a shame for me". (MTS, public space, Costa Rica)

The searches, in addition to being frequent and arbitrary, are often extremely humiliating for women, as they refer that more than a simple procedure result in situations of sexual abuse, physical violence, verbal violence and abuse of authority.



"Once something happened to me in the Central Park... I was sitting there in the Central Park, I was waiting for my sister that day and two policemen arrived: "What, do you have papers, girl? And "why?" I said, "I'm not doing anything, I'm waiting for my sister"... but... anyway, give me the papers and they made me take out everything that was in my bag that day..." (MTS, public space, Costa Rica).

Another of the women participants shared the following situation:

"about a month ago, because I was outside the hotel with a bad joint, they stopped me too (...) They took me to a police station and sat me on a toilet and opened my legs like that and I felt extremely indignant.

because I ask you, is that possible?

I have never visited a prison, but I have been told that in prison they don't even look at your vagina. It is true that they check all of them and everything, but that they opened me up like that (...) It was the sheer stupidity of seeing me naked, of going through the indignation, really.... to take me to the dungeon... That happened to me a month ago. And they opened my vagina like that. ... it wasn't fair to me" (MTS, closed space, Costa Rica).

The reasons why police officers stop them appear to be often based on moral bias, as indicated in the following :

"Once a while ago, one of these guys who rides a bicycle from the municipality came and said to me: 'How sad! How much would I give to get all these old whores out of here? And I said to him: 'Why are you talking like that? because I am one of them;' and he said to me: 'No, it's just that all these old whores, they are just bad examples here,' he said? Imagine me passing by here with my daughter, with my little girl here, and she tells me what is that woman doing standing there? What am I going to tell her? I hate this whole bunch of motherfuckers, she says? Go! and then all these are things that hurt you because always, you see, girl... whenever I am standing there, he comes there with those disgusted faces and says: 'old bitches!... and it's a very strange thing to say, go!

"After they took that police station away, they have not taken us there again, but yes, as the compañera says, before they came and they would take us all out and make us do squats and put us on all fours.

and everything...even opening their buttocks." (MTS, public space, Costa Rica)

As noted above, police searches must be conducted by a person of the same sex; however, this is not always enforced and until recently was not even the norm.

"In this area I had the worst experiences with policemen; when I used drugs at that time I did not have breasts, because I became very skinny; it seemed that my physique was that of a transvestite, that is, they doubted that I was really a woman, so the policemen always groped me, ... however, this of women who searched me has only appeared by law, I think, in the last two to three years, because five years ago, when I was in this street, I was always searched by men.... but nevertheless this of the woman who searches has only appeared by law, I think in the last two to three years, because five years ago... when I was on this street I was always searched by men, you understand, now they search women".  
(MTS, public space, Costa Rica)

Very often the searches involve in practice the invasive search of sex workers' personal belongings. As we saw in the previous section, this practice is contrary to current law, but according to the women consulted, it occurs very frequently.

"They take away our phones, they take away what we walk, they take away our bags and money, when they give it to us,  
they give us less money...  
They take us to detention, before they didn't even give us our bags..." (MTS, public space, Costa Rica).

The women participants also report that police officers take advantage of the searches to steal the money they have earned.

I see two motorized vehicles coming behind me and the thing is that they stopped my cab... they got me out of the cab and told me to take out everything I had in my wallet...; I take out everything and... where you see the pile of money, (because he had paid me about fifteen to twenty-five thousand pesos, right), then he arrives and says to me: (...) "no, you know what? this is useful for breakfast in the morning"... I explain to him that it is to pay the house, to buy food, to pay the electricity... and they tell me: "No, no" he says, as you are a whore, you can get it back at any moment". Listen, they took the money, they put it in their bag and they grabbed it and got on the motorcycle and pulled it. No, I didn't take off the shot, my God, my tears were coming down my cheeks"  
(MTS, closed space, Costa Rica).



Although the law obliges any citizen to carry and show his or her identity card to the competent authorities (including the police), the women consulted indicate that the police withhold this document with the apparent aim of annoying them and flaunting their power, and that they are always potentially stigmatized for being sex workers.

"You simply have to give them your ID card, and sometimes you even have to walk behind them because they don't want to give you back your ID card..."

(MTS, public space, Costa Rica)

"Another day, I come with my husband, we come here for the Children's Museum... they ask me for my ID card, they gave it back to my husband, and they threw mine there in the river of the Children's Museum. No, and I say: -but what are they doing that for?

-One document more, one document less," he says. You don't need one, he says. There is the National Registry, which gives them for free. And I tell him:

- Yes, I say, but it is my document, I make it. It's my personal document, it's my identification, I'll do it. What are you doing that for, I tell him... Besides, what do you gain from it...?

-I don't have anything," he says, "but at least I'll make sure you make time to take it out....

So I kept looking at him and of course until I turned pale from the shock, and I said to my husband: "What? What do I do?

- And what are we going to do, he tells me... let's go to the Registry". (MTS, closed space, Costa Rica)

As indicated above, arbitrary detentions are a daily occurrence. In addition, according to the participants, police officers engage in much more serious situations, including sexual violence.

"once they put me in a crate and they took me to Pavas where there are some empty lots and the policeman said to me: You know what? you are going to be with all of us, and there I went through the colonel, the sergeant, the private, everything... and in the end they told me, you can go now... and I was afraid... because I don't know, I've been terrified of cops all my life and they did that to me.

And I don't think it's just me, but more than one, who knows how many. (MTS, public space, Costa Rica)



The WSWs who work in public spaces also mention that the police often do not allow them to remain on benches, in parks, streets or other public spaces to which anyone should have unrestricted access. It has been alleged that the benches in downtown San José were "not for whores," and the municipal authorities decided to remove the benches rather than allow the WSWs to use them.

"What I can say is that when we sit on the benches we are then removed from the benches, and they took the pleasure of removing the benches so that you couldn't sit down" (MTS, open space, Costa Rica).

Despite the multiple human rights violations that are concretized by these actions, WSWs do not always seem to be so sure that their rights are being disrespected, or at least, it is not easy for them to identify the rights that are being violated on different occasions. They have a clear idea that these situations bother them, that they are not right, but they cannot always identify the specific right or rights to which they could appeal.

The group of WSWs, when consulted in this regard, identified as violated rights their right to health, the right to dignity, the right to social security (because they are not considered workers), the right to free transit and enjoyment of public spaces (since they are not allowed to freely enjoy public spaces such as parks, sidewalks and benches), the right to identity (due to the withholding of identity documents), the right to integrity (due to beatings and mistreatment), the right to private property, which is not respected by frequent robberies.

Another situation that significantly affects the participating WSWs is the discrimination and rejection they suffer, since all the violence they suffer hides the stigma of the work they do.

Although in the perfil of the participants it was detailed that a differentiation was made between women who work in closed places and those who work in open places, in the development of the focus groups it was evident that many have had both experiences during their lives and even simultaneously. Therefore, they share their experiences referring to the experience of being sex workers in general, without emphasizing that aspect since they know both spaces and when they speak they refer to their work in general. For example, a woman who currently works in a closed place expressed:

"One day I arrived early, supposedly to work, right. Since the store is closed I'm going to go to work there, right, and I arrived and sat down... on a bench, and then came and makes me a paco: - Here the rod is walking, he tells me. Those benches are for workers."  
(MTS, enclosed space, Costa Rica)



## Actors involved in institutional violence and the procedures and regulations to which appeals.

### Security forces and sex workers

As indicated above, the police are identified as the main violators of WSWs' rights. In public spaces they are arbitrarily detained, persecuted, searched without reason, and prohibited from using public spaces. Searches and detentions for no apparent reason are also reported in enclosed spaces.

During the focus group with confined space MTS, participants were asked to share the first word they associated with the police. The results are revealing:

- Enemies
- Aggression
- Yawning
- Discriminators
- Motherfuckers
- Exploited

The participants indicate that these situations of mistreatment and disrespect also occur with policewomen. According to current legislation, only a woman can search another woman, but in the case of sex workers, not only is this principle disrespected, but normally the policewomen who carry out the searches and arrests are equally violent and disrespectful.

Sex workers who have done this work for many years remember how searches by male police officers were the norm. They also mention how female sex workers could be detained for not carrying a current "health card". This was a document issued by the Ministry of Health that certified the sexual health condition of these women, as a result of mandatory periodic medical check-ups.

As indicated above, national legislation does not prohibit any of the specific activities inherent to sex work: loitering, standing on a specific corner, offering sexual services, having paid sex in private spaces. That is, if adults are involved, if there are no public scandals or exhibitionism; then there is no restriction in the current legislation. However, as we saw in the previous chapter, female sex workers are still very often detained under the assumption of "vagrancy".

"Once I was in the street, at about five o'clock in the afternoon, and the patrol car stopped me: 'What are you doing...' and then he said to me: 'Do you know that vagrancy is a crime?'"

Get in the drawer! And they took me to a detention center in Morazán Park, we went inside and now we let her go and they took me, they took my data and said: "this one is going down" and there were some very strange tunnels there, and they already took me and put me in jail and I ask "What time are they going to release me? Let's see, it's under study. And I started to cry, and there was a policewoman and she said to me: "Look, if you keep crying you will see what will happen to you, and I was crying and crying because I didn't know what to do, it was like the second time that had happened to me. And she said to me: "Look, let's do something, take off your clothes, and I was naked and there was no one there, I was alone and she took a bucket of cold water and threw it at me. I spent the whole night sleeping on a stone bed and at about 10 o'clock the next morning they let me go, I took my dress and got out of there... and I had an ID card and everything, it was because they wanted to..."

(MTS, public space, Costa Rica)

Some sex workers acknowledge that they have been arrested on occasion for drug use in public, for scanning or for drunkenness. However, they always insist that the fact of "being whores" facilitates these arrests and constitutes, in itself, a reason to be detained or searched.

Lack of confidence and conflicts with the police mean that female sex workers do not seek police protection when they need it.

**MTS1: "I never reported to any police officer because what's the point...it's a waste of time, they don't even pay attention to you..."**

**MTS2: it is that later they catch it between the eyes...**

**MTS3: Yes, then they charge you all the time....**

**(MTS, enclosed space, Costa Rica)**

However, the case of one of the participants who dared to file a complaint against at least one police officer who mistreated a group of homeless people stands out. In other words, complaints for situations that they personally suffer are very rare, but this woman has done so outraged by the injustice she believes has been committed against other people.

"Yes, because he hurt me a lot as I was recording with my phone everything they were doing... here I have the video, everything they were doing with the homeless [SIC], older adults arrive and take their ID cards and tell them: "give them to me! and push them and sit them down, because they, well, they are alcoholics, they drink, so that's where I put my hand and told him: why are you doing that to them? And he says to me: why are you recording? And here you can see the video where he takes my cell phone and he makes me roll around with him but I never let go of the cell phone, and he throws me to the ground and I am struggling with him, but I have the cell phone here and at no time... Then, even when they put me in the box they told me "give me the cell phone! and I didn't and everyone was telling me outside, give it to me, give it to me! and I didn't! I only gave it to Karen. Karen is a girl there and they sent her to call and I told her "Here Karen, here it is, the phone is off" And of course, those people, those policemen were there, imagine! because the video is there..."

**(MTS, public spaces, Costa Rica)**

Cases of police officers asking for sexual favors in exchange for releasing detained female sex workers are mentioned, as well as cases of extortion and bribery:

Some even said: "Well, if you pay me something... Asking for money!.... There was a policeman who every time he saw me he would say to me: 'Well, what about you, do you have anything there...?' and some of my colleagues would even make a bank<sup>17</sup> and then we would make a bank and give it to the policeman so that he would let us go... and that is a bribe".

**(MTS, open space, Costa Rica)**

Paradigmatic situations of police violence even when they are detained and defenseless are represented in the following:

"I have my two front teeth in half, because I was in a dungeon, screaming for them to take me out, the truth is that my intention was to bother them. The policemen were drinking coffee, I agree: yes, I shouted like a monkey to get them to take me out of there and a policeman arrived with a club in his hand, He asked me: "Do you want to go out?" and I said: "yes"; and when I said: "yes", he hit me with the club between the bars. When I felt it was the tip of my tooth" (MTS, closed space, Costa Rica).

Another particularly cruel one is the following in which the abuse of power over women and the ignorance of the work they perform as work is manifested:

I had an experience with some policemen... look, they caught me at about ten o'clock at night, right... I was waiting for the bus, it arrived and a policeman stopped me in one of those double cabs, three policemen in the back and two in the front. And he says to me: - The ID card! And I ask him: - Yes, of course, I do it. And I get there and take his ID card and I see that they get out, right... The two in the back get out and only the one in the middle is left... then he arrives and asks me: "What do we do? - Buddy, what, what do we do? - I mounted - cool in the back, he says, with us. And I say, "Where are you taking me? - Don't worry, he says, he's going to the booth. - But I'm giving you my ID card, I tell him, but I'm going home, I tell him, I'm not doing anything. I'm not doing anything, you're going where we say and I don't know what. Well, to make a long story short, the thing is that

he says to me: - what, are you going to join us, and I... - are you crazy? What's wrong with them? Calm down... I already worked what I had to work... He tells me, - It's just that you are a prostitute, he tells me. You're a little whore from Calle 11, what are you going to lose, he tells me- No no, I'll do it, you want me to, No no... better calm down, put me down here, I tell him. I already gave them the identification card, even more, if they want to take the card, let them take it, because let them take it. Well, you see, they have gone and left me over there by Zurquí 18, you know what, at about three in the morning I arrived here at my house" (MTS, closed space, Costa Rica).

In general, the police procedures that women denounce have no legal basis. They are practices of mistreatment, torture and coercion. The information suggests that they are acts carried out by police officers in a collective manner, that is, several police officers of different ranks act in an organized manner and cover for each other in order to achieve impunity.

Although with important limitations, colleagues from the organization La Sala comment on the experience of working directly in the sensitization and training of police officers about women's rights in order to advance in the recognition of their work and their rights as women. They say that when they have had the opportunity to speak directly with police officers, complaints from fellow sex workers about cases of abuse and mistreatment have decreased significantly. In fact, they have even been able to build friendly relationships with police officers from nearby police stations, in which police officers and sex workers agree to respect each other.

*18 Remote and solitary place. About 20 kilometers from downtown San José.*

## Law enforcement officials and sex workers

According to the focus group participants, being a sex worker is a condition that predisposes justice operators to rule against them when they appear before the courts.

On repeated occasions, the authorities use the occupation of these women to separate them from their children or to deny them the help they request. Cases in which police officers are tolerant and even complicit in violence against sex workers appear to be common.

One of them says that she was a victim of domestic violence and had to call the police:

"in the house I had torn up a lot of things and everything [in a domestic violence case]. Right, They took him out because the house was in my name, but the policeman told me: 'One more problem and I'm coming for you, and why? ma... In other words, it is one more discrimination. And why would one go to denounce... it's a waste of time...".  
(MTS, public space, Costa Rica)

As mentioned above, the women participants do not usually file complaints with the justice system because they feel discriminated against and because their status as sex workers puts them at a disadvantage.

Those who have had the experience of filing a lawsuit or participating in a trial have been prejudiced by virtue of their occupation.

"I have paid more than a million colones in lawyers. I go to every hearing and they try me for being a prostitute. At every hearing I tell the judge "yes I am, I'm a whore, that's how I support myself, and by the way it has helped me to defend myself". because my son's father is an attentive boy, a pimp as we can call him".  
(MTS, enclosed space, Costa Rica)

## Opportunities and strategies for the defense of rights

The women participants are clear about police procedures or judicial processes that are not correct; however, they are not always able to identify which specific rights are being violated or how to defend themselves in situations where the violence comes from the state apparatus itself. The same happens with national legislation: they assume that some situations they face are against the law, but they do not know which legal instrument(s) would allow them to defend themselves.

On the other hand, they identify La Sala as the immediate space to which they can turn for help. Secondly, they identify INAMU and, to a lesser extent, the Ombudsman's Office as spaces that could defend them; however, it does not appear that in practice they have made use of such institutional resources (with the exception of La Sala).

The participants thus have clear ideas of their needs, but not of the political strategy to achieve their satisfaction. They raise general ideas in the sense that they must unite and that they need a strong figure to represent and lead them.

With respect to the needs they raise:

"We need]... at least adequate medical attention. That when one arrives for an exam -and we are looking for the wellbeing of ourselves and others, right?- when one arrives for an exam and is treated badly, at least to have a place where one can arrive and be examined without discrimination, without anything... to be treated better. Day by day, little by little, we are advancing slowly if we continue, but here we are in the law of the caves, there is still nothing here... for us there is nothing..." (MTS, open spaces, Costa Rica).

When asked what proposals they would make to achieve their objectives, the responses were - as indicated above - quite general:

"unite" "present a  
project"

"Someone to stand up for us, someone who believes in us in the word we. Someone to support us. Because they don't believe us, that is, because we are sex workers they don't believe us..."

"We all organize ourselves, let's say, every time something like that happens to us, we all organize ourselves and go and visit the Public Prosecutor's Office and do a reconnaissance of the police officers and denounce them right there; not at the OIJ but right there at the Public Prosecutor's Office".

"Someone to stand up for us, to solve these problems" ( MTS, open and closed spaces, Costa Rica).

The construction of a political strategy aimed at eradicating violating social and institutional practices, and simultaneously seeking to establish new practices that are more sensitive and built in accordance with human rights, is a pending issue among the group of women sex workers, at least among those who participated in the consultation.

The women participants are not able to make articulated proposals to influence the security forces and the judicial system, but they recognize La Sala as an organization that has been building power in this regard to represent the needs and defend the rights of women sex workers.





## 6. CONCLUSIONS

"The lack of regulation of sex work has as one of its main consequences the violation of practically all the labor rights of female sex workers, but it also brings with it the violation of human rights in general of women sex workers.

"Sex work in Costa Rica is not regulated and is therefore unprotected. Sex workers are not formally considered as workers and this means that they do not have access to employment-related social security. A draft bill has recently been presented to change this situation.

"Public spaces (streets, parks, street corners) are particularly risky for the practice of sex work, i.e., women who practice sex work in these spaces seem to face worse and more frequent situations of abuse and violence, mainly by police officers (mainly from the Municipal Police).

"Despite facing daily situations of violence, female sex workers are not always aware of their rights or of the legal and institutional instruments they can use to defend them. The lack of knowledge and the inaccessibility of justice for sex workers lead to the naturalization of these situations of violence.

"The group of women participants does not seem to be clear about the political strategy to be followed to ensure that their rights are not violated. They bet on an institutional figure such as the social/union organization that has greater clarity, around which to group and act collectively.

"Within the entire judicial apparatus, sex workers are at a great disadvantage. Their "prostitute" status makes them lose credibility, since "justice" operates along with the moral condemnation that comes with their occupation.

"Police officers are by far the actor with whom sex workers experience the greatest conflicts. The police establish with these women an extremely violent, arbitrary and disrespectful power relationship. The women accept that sometimes the problems with the police originate in fights, scandals, drug use, alcoholism or other offenses that they themselves commit, but they maintain that the police treat them in an absolutely discriminatory and violent manner simply because they are sex workers.

## 7. RECOMMENDATIONS

The main political bet of organized women sex workers is a bill to achieve the regulation of sex work, i.e., to have this activity formally considered as a job with all the corresponding rights and duties. However, the term regulation by itself does not clarify what its specific contents could be, leaving open the possibility that sectors interested in a rather restrictive and punitive regulation of sex work may take part in the eventual regulation. Measures should be taken to ensure that a bill regulating sex work actually has characteristics consistent with the human rights of sex workers and their specific needs.

With respect to social security and other labor rights of sex workers, and with a view to having results in the short term; the possibility of achieving specific agreements with the Costa Rican Social Security Fund and the Ministry of Labor that grant such benefits to sex workers linked to La Sala could be explored. This could have the additional result of strengthening La Sala as an organization, since it would make it much more attractive for sex workers to be considered as members.

The search for face-to-face relationships with male and female police officers seems to have had good results in other opportunities. It could be benefit for female sex workers if La Sala promotes processes of sensitization and articulation with the security apparatus and police personnel regarding the situation of female sex workers and the respect they deserve.

Women sex workers should know in greater detail what their rights are and what are the concrete mechanisms they can use to enforce them. This arises from very concrete training on the use of legal resources according to the reality they live in the streets or workplaces.

As a complement to the previous recommendation, it is important to offer women sex workers processes and spaces to strengthen them as individuals and as a group in terms of identity, self-esteem, citizenship, empowerment and other issues related to their personal strengthening.

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FB: /ammarg.nacional

TW: @AmmarRedtrasex

### Onaem (Bolivia)

FB: /Onaem Bolivia

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FB: /movimientodemujeresorquideasdelmar

TW: @MOrquideas

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FB: /Organización-Mujeres-En-Superación

TW: @omesguate

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Web: <https://redtrasexhonduras.wordpress.com/>

FB: [www.facebook.com/redtrasexhonduras](https://www.facebook.com/redtrasexhonduras)

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FB: /Redtrasex-Girasoles-Nicaragua

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### MDDP (Panama)

FB: /mujerescondignidadyderecho

TW: @mdd\_panama

### Redtrasex Perú (Peru)

FB: /redtrasex.peru

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