

Declaration of the Rights of Sex Workers in Europe



This Declaration was endorsed by approximately 200 delegates (sex workers and allies) from 28 countries in Europe at the European Conference on Sex Work, Human Rights, Labour and Migration, held in Brussels, October 15-17, 2005. The final day of the conference, it was presented to the European Parliament, at the invitation of Monica Frassoni, Italian Member of European Parliament (Greens/European Free Alliance). There, it was endorsed and signed by Vittorio Angoletto, Italian Member of European Parliament (Confederal Group of the European United Left/Nordic Green Left).

Introduction

Why do we need this Declaration?

Europe has adopted a variety of approaches to the sex industry and to female, male and transgendered sex workers—including migrant sex workers. While some countries have accepted sex work as labour and even introduced labour rights for sex workers, others have criminalised a wide range of practices associated with sex work. In certain countries, sex workers' partners and/or clients have at times been criminalised, and being a sex worker has been made a "status crime."

The recent proliferation, at local, national and international levels, of legislative measures that restrict the fundamental rights and freedoms of sex workers has been rationalised as a means of combating organised crime and promoting public health. However, The Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organisation have explicitly stated that repressive legislation restricting the rights of sex workers actually undermines public-health policies. It does so, they explain, by using practices central to safe sex (such as possession of condoms) as evidence of criminal activity, and by driving the sex industry underground.

Such measures fly in the face of the European Parliament's 1986 *Resolution on Violence Against Women* [Document A2-44/86]. This Resolution called for the decriminalisation of prostitution; a guarantee of equal rights for prostitutes; and the protection of prostitutes' independence, health

and safety. Moreover, many anti-prostitution measures violate the obligation states have under international human rights legislation to respect, promote and protect the human rights of all persons within their territories, without discrimination.

There is strong evidence that migrant workers in all sectors face ever-growing levels of abuse and exploitation. Yet European responses to increasing international migration have focussed on restrictive legislation, with little attention paid to protecting migrants' rights and freedoms. As of October 2005, Bosnia and Turkey are the only European countries to have ratified the UN *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, which came into force July 1, 2003.

Sex workers' organisations—and projects providing services to sex workers—in Europe have accumulated substantial evidence that discriminatory legislation and behaviour occur throughout the health-care and social-security, housing, employment, education, administrative law and criminal justice systems. There is no country within Europe—regardless of the legal status of sex work—where sex workers have not reported discrimination and other violations of their human rights.

Examples of discriminatory legislation

IN AUSTRIA, sex workers are subjected to mandatory sexual health controls, but other sexually active citizens are not. This discriminatory practice promotes the stereotyping of sex workers as "unclean."

IN FINLAND, sex workers who work together for their mutual protection may be prosecuted for "pimping" one another. This violates their rights to peaceful assembly and association and to favourable conditions of work.

IN FRANCE, a sex worker's child, upon reaching the age of majority, may be prosecuted for "living off" the sex worker's earnings. This violates sex workers' rights to respect for their private and family lives.

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PHOTO: Quentin Deltour (Espace P)

Sex workers demonstrate empowerment.

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IN GREECE, where sex work is legal and sex workers are registered, sex workers who marry are not allowed to continue to work legally; their licences are withdrawn. Sex workers are therefore forced to choose between their right to marry and found a family, and their right to livelihood and to the practice of their profession. No person should be forced to make such a choice.

IN ITALY, police confiscate and throw away or burn sex workers' possessions with impunity. This violates sex workers' rights to property, to equal protection under the law, and to protection from discrimination.

IN THE NETHERLANDS, sex work is legal — unless one is a migrant sex worker. Migrant sex workers constitute the only category of employees excluded from getting legal work permits. (All other non-nationals can obtain legal work permits, as long as they meet the conditions laid out in the *Law on Migrant Workers*.) This violates migrant sex workers' right to be free from discrimination.

IN PORTUGAL (and in many other countries), sex workers may lose custody of their children solely because of their occupation, in the absence of any specific evidence of harm or the incapacity to parent. This violates their right to be free from arbitrary interference with their family life and to non-discrimination.

IN ROMANIA, sex work is illegal. As a result of pressure from the Romanian Government, the Austrian Government has terminated the work permits of Romanian sex workers. Thus women who have worked *legally* in Austria may face retribution on their return to Romania. This violates their right to seek gainful employment in a country other than their own.

IN RUSSIA, police have subjected sex workers to threats of being sold into slavery, and have forced sex workers to have sex without payment. These practices violate sex workers' rights to security of the person and equal protection under the law.

IN SLOVAKIA, health-care workers have discriminated against sex workers with impunity. They have refused medical care to sex workers, and have made derogatory comments to pregnant sex workers, alleging that they are not fit to bear children. This violates sex workers' right to protection by the state of the highest attainable standard of physical and mental health care, as well as their right to found families.

IN SPAIN, sex workers in brothels are not only required to undergo sexual health exams conducted by the brothel-owners, but also to pay excessive fees for these health exams. Moreover, test results are not kept confidential. In condoning these violations of medical codes, the state is failing to uphold sex workers' rights to privacy and to the highest attainable standard of physical and mental health care.

IN SWEDEN, politicians and policy-makers have threatened to withdraw from public debates in which sex workers are permitted to participate. This violates sex workers' right to freedom of expression and opinion.

IN THE UNITED KINGDOM, where street-based sex workers are criminalised, authorities employ Anti-Social Behaviour Orders to restrict sex workers' freedom of movement. In some cities, posters bearing the names and photographs of sex workers have been printed and distributed. This violates sex workers' rights to privacy and to participation in public life, and exposes sex workers to discrimination and violence.

Under international law, it is a fundamental human right that "*all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.*" Yet the examples above, and many other recorded violations, clearly demonstrate that sex workers in Europe are routinely denied equal access to legal protections. These workers have compelling reasons to avoid using the judicial system to challenge discrimination, violence and other abuses.

History of the Declaration

The process leading to the creation of this Declaration began with the formation of the Sex-work Initiative Group Netherlands (SIGN), a network of Dutch sex workers and sex-worker-rights activists interested in organising a conference and advocating for the rights of sex workers in Europe. In June 2003, SIGN members solicited participation from sex workers and sex workers' organisations across Europe to join them in planning a conference.

In January 2004, an international Organising Committee (OC) was established, composed of fifteen individuals. Most were current or former sex workers—including migrants—from several European countries. The OC did not have representatives from every country or group in Europe. However, it was supported by a large number of sex workers, sex-worker-rights activists and organisations that work with sex workers from across Europe and beyond.

The OC decided that this *Declaration of the Rights of Sex Workers in Europe* would provide a framework for organising the conference; would meet the ongoing need to raise awareness of sex workers' human rights; and could serve as a tool with which to examine and challenge violations of these rights.

The OC established a legally constituted organisation—the International Committee on the Rights of Sex Workers in Europe (ICRSE)—in order to coordinate this conference, as well as undertake new initiatives. In addition to producing this Declaration, the ICRSE made a commitment to develop strategies to gain political recognition and public acceptance for the principles contained in it.

This Declaration outlines the rights to which all persons in Europe—including sex workers—are entitled under international law. It then sets out measures which ensure that sex workers in Europe are accorded these rights. This Declaration of rights is based on the following 17 documents:

- The United Nations [UN] *International Covenant on Civil and Political Rights*, 1966
- The UN *International Covenant on Economic, Social and Cultural Rights*, 1966
- The UN *Convention on the Elimination of All Forms of Discrimination Against Women*, 1979

- The UN *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990
- The UN *Convention Relating to the Status of Refugees*, 1951
- The International Labour Organization [ILO] *Convention concerning Forced or Compulsory Labour* (N° 29), 1930 and *The Abolition of Forced Labour Convention* (N° 105), 1957
- The ILO *Freedom of Association and Protection of the Right to Organise Convention* (N° 87), 1948
- The ILO *Migrant Workers (Supplementary Provisions) Convention* (N° 143), 1975
[NB: Article 2 of the *Migrant Workers Convention*, 1990, defines a migrant worker as any person “who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”]
- The *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950
- The UN *Universal Declaration of Human Rights*, 1948
- The UN *Declaration on the Right and Responsibility of Individuals*, 1999
- The UN *Declaration on the Elimination of Violence Against Women*, 1993
- The UN *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, 1985
- The ILO *Declaration on Fundamental Principles and Rights at Work*, 1998
- ILO *Recommendation Migrant Workers* (N° 151), 1975
- The *European Social Charter*, 1961 & 1996
- EU *Charter of Fundamental Rights*, 2000

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Happy, smiley protesters.

PHOTO: Quentin Deltour (Espace P)



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TO REITERATE: This Declaration is not a demand for special rights to be given to sex workers. Rather, it is based on the principle that the act of selling sexual services does not constitute grounds for the denial of the fundamental rights to which all human beings are entitled under international law.

Solidarity

This Declaration is based on an extensive consultation process conducted across Europe. Individuals and groups with widely differing experiences and perspectives were brought together. This emphasized those issues sex workers have in common with other marginalised groups whose rights are not always respected. Furthermore, the Declaration assists sex workers in Europe to make connections in other parts of the globe. Although specific to Europe, this Declaration speaks to people around the world in the language of rights.

Using this Declaration

Information is powerful. Knowing our rights is the first step in being able to stand up for them with authority. By examining existing rights, it is hoped that the Declaration will serve as a tool to empower sex workers in justly defending themselves and one another.

Beyond this, the Declaration aims to act as a benchmark by which sex workers can judge what has been achieved so far, what progress is currently being made, and where to direct future efforts. It provides a basis for organisations and groups to lobby for the recognition of universally accepted rights, and to advocate for sex workers in particular cases where their rights might be in dispute.

Protesters march down boulevard Albert II.

PHOTO: Quentin Deltour (Espace P)



Moreover, the Declaration offers guidance to organisations and institutions seeking to achieve equitable, non-discriminatory policies and practices.

Finally, it is hoped that this Declaration will help in the long-term aim of winning public recognition that respect for the human rights of *all persons* is integral to a healthy society.

(Want to become a supporter? OR, Do you have evidence of any attempt (success or failure) to promote human rights for sex workers? Please contact the ICRSE at: info@sexworkeurope.org)

Declaration of the Rights of Sex Workers in Europe

All individuals within Europe, including sex workers, are entitled to certain rights under international human rights law. The rights all European governments are obliged to respect, protect and fulfil include:

- the right to life, liberty and security of the person
- the right to be free from slavery, forced labour and servitude
- the right to be free from torture and from inhumane or degrading treatment
- the right to be protected against violence, physical injury, threats and intimidation
- the right to be free from arbitrary or unlawful interference with privacy, family, home, or correspondence
- the right to be free from attacks on honour and reputation
- the right to marry and found a family
- the right to liberty of movement and residence
- the right to leave any country, including one's own, and to return to one's own country
- the right to seek asylum and not to be returned to a dangerous or otherwise unacceptable situation
- the right to equal protection under the law, including the right to a fair trial
- the right to protection from discrimination and from any incitement to discrimination
- the right to freedom of opinion and expression
- the right to work, to free choice of employment, to just and favourable conditions of work, and protection against unemployment

- the right to the highest attainable standard of physical and mental health
- the right to peaceful assembly and to freedom of association
- the right to organise and, in particular, the right to form and to join a union
- the right of documented and undocumented migrants to information
- the right to effective remedies against injustice
- the right to participate in the cultural and public life of the society
- the right to benefit from state obligations to combat prejudices and practices, customary or otherwise, based on the idea of the inferiority or superiority of either of the sexes, or on stereotyped gender roles.

These human rights are established in international treaties that European governments have agreed to uphold. Moreover, most treaties contain a clause stipulating that these rights should be upheld without discrimination. Specifically, there must be no discrimination based on a person's race, colour, sex, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or *other status*. Moreover, the United Nations Human Rights Committee has stated [in General Comment 15] that,

“Each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens.”

Although these rights apply to all human beings, the experience of sex workers all over Europe is that states do not respect, protect, fulfil and promote their rights on a basis of equality with the rights of other nationals.

The signatories of this Declaration hereby declare the rights of sex workers in Europe, and urge European governments to enforce these rights.

I. Life, Liberty and Security

Sex workers have the right to life, to liberty, and to security of the person, including the right to determine their own sexuality. In respect of this right,

1. No person should be forced to provide sexual services against her or his will, or under conditions to which she or he does not consent.



PHOTO: Maj Christensen

It was a beautiful sunny day for a parade.

2. Condoms are vital for the protection of life and security. Therefore, the confiscation of condoms from sex workers should be prohibited.
3. The governments of all countries should investigate murders of sex workers and other violent crimes against sex workers, and should punish all perpetrators of such crimes, including law enforcement officials who commit such crimes.

II. Privacy and Family Life

Sex workers have the right to be free from arbitrary interference with respect to their private and family lives, their homes and their correspondence, and from attacks on their honour and reputation. In respect of this right,

4. No person should be denied the right to establish and develop relationships.

[NB: In accordance with a judgement of the European Court of Human Rights, the right to privacy includes the right, *“to establish and develop relationships with other human beings, especially in the emotional sphere, for the development and fulfilment of one’s own personality.”*

(*Dudgeon v United Kingdom*, Judgement of the European Court of Human Rights (1981) 4 EHRR 149)]

The labelling of sex workers’ partners and adult children as “pimps” is discriminatory, and implies that it is not appropriate for sex workers to have private or family lives, or for other persons to establish or develop relationships with them.

5. Sex workers have the right to determine the number and spacing of their children. Current or former engagement in sex work should not be considered grounds for challenging a person’s fitness to be a parent or to have custody of her or his children.

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PHOTO: Maj Christensen

Police escorts lead the way back to our hotel.

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III. Health

Sex workers, regardless of immigration status, have the right to the highest attainable standard of physical and mental health, including sexual and reproductive health. In respect of this right,

6. No person should be subjected to mandatory sexual health and HIV screening. All health tests should be conducted with the primary goal of promoting the health and rights of the person affected.
7. Information about sexual health and HIV status should be kept confidential.

IV. Freedom of Movement

Sex workers have the right to freedom of movement and residence. In respect of this right,

8. No restrictions should be placed on the free movement of individuals between states on the grounds of their engagement in sex work.
9. No restrictions should be placed on the freedom of movement of individuals within states, or within their own communities. All regulation, at any level, that seeks to control sex workers must not infringe upon their rights to freedom of movement, including the freedom to leave and return to one's residence, visit family, or access services.

V. Freedom from Slavery and Forced Labour

Sex workers have the right to be free from slavery, forced labour and servitude. In respect of this right,

10. Measures should be taken to ensure that sex workers enjoy full labour rights, are fully informed of such rights, and have access to the full range of measures and standards intended to end exploitive working conditions.
11. Measures should be taken to provide appropriate assistance and protection to victims of trafficking, forced labour, and any practice resembling slavery, with full respect for the protection of these persons' human rights. Residency permits should be provided to ensure effective access to justice and legal remedies, including compensation, irrespective of willingness to collaborate with law enforcement. Trafficked persons must not be returned to situations that will result in further harms.

VI. Equal Protection Under the Law, and Protection from Discrimination

Sex workers have the right to equal protection under the law, including access to effective remedies. They also have the right to protection from discrimination, and from any incitement to discrimination. In respect of this right,

12. Where a sex worker has not committed an offence and the selling of sexual services is not illegal, law enforcement officers must be prohibited from abusing their authority by interfering with or harassing this worker. When engaged in criminal investigation or arrest, officers must respect the rights of all accused and defendants, regardless of their status as sex workers.
13. States are responsible for investigating, prosecuting and adjudicating crimes committed against persons, regardless of involvement in sex work and of immigration status. Measures should be taken to ensure that proponents of the criminal justice system are able and willing to properly respond to crimes reported by sex workers. Law enforcement officers, prosecutors and members of the judiciary must be adequately trained, and their work must be overseen in an appropriate manner. Moreover, evidence submitted by sex workers in the course of criminal proceedings should not be dismissed on the basis of their profession.

14. No person should have her or his legal belongings arbitrarily confiscated or destroyed by law enforcement agencies.

In respect to the right to protection from discrimination,

15. No person should be discredited in any civil or family court because of her or his current or former engagement in sex work.
16. Measures should be taken to protect sex workers and their dependents from discrimination in the areas of employment; housing; legal services; childcare; and the provision of medical, social and welfare services; and services provided by private insurance companies.
17. There should be public and professional education with the objective of eliminating discrimination against sex workers.

VII. Marriage and Family

Sex workers have the right to marry and to found families. In respect of this right,

18. Current or former engagement in sex work should not restrict or prohibit a person from marrying the partner of her or his choice, or from founding a family and raising children.
19. Governments should ensure that current or former engagement in sex work does not prevent any person, or her or his family, from accessing health care. Governments should ensure that public authorities and health services do not discriminate against sex workers and their families, and that they respect sex workers' rights to privacy and to family life.

VIII. Work and Working Conditions

Sex workers have the right to work; to free choice of employment; to just and favourable conditions of work; and to protection from unemployment. In respect of this right,

20. Governments should recognise sex work as work. The lack of acknowledgement of sex work as labour, or as a profession, has adverse consequences on the working conditions of sex workers, and denies them access to protections provided by national and European labour legislation.

21. Sex workers should be able to determine, without interference or pressure from others, the nature and conditions of the sexual services they provide.
22. Sex workers are entitled to safe and healthy workplaces. Accurate and up-to-date information about health and safety should be available to sex workers, whether self-employed or employed by others. No sex worker should be required to consume alcohol or other drugs as a condition of employment.
23. All persons are entitled to be treated respectfully within their workplaces, and to be free from sexual harassment. Sex industry workplaces, like all other workplaces, should promote respectful treatment, and freedom from abuse and harassment.
24. Sex workers should be entitled to employment and social security benefits, including paid sick leave; paid pregnancy and parental leave; holidays; and the right to unemployment benefits in the event that their employment is terminated or they decide to leave sex work.
25. Sex workers should not have to pay inflated rates for rentals or for essential items — such as food or services — within the workplace on the grounds of its being a sex-work venue.
26. No person should be barred from employment or dismissed from alternative forms of employment on the grounds of having previously engaged in sex work.

IX. Peaceful Assembly and Association

Sex workers have the right to peaceful assembly and association. In respect of this right,

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It felt as if we turned a corner that day...

PHOTO: Maj Christensen



Prostitutes, WE Salute YOU!

Hotel conference rooms used for the workshops and plenaries were renamed to commemorate some of history's more (in)famous sex workers who stood up for our rights and influenced society.

Mata Hari

(1876-1917)

Born Margaretha Geertruida Zelle in Leeuwarden, Holland, Mata Hari (Malay for "Dawn") claimed she was raised in Java by temple priests where she was taught to dance naked.



Described as "hypnotic" and "charming" her dancing earned her rave reviews as she delighted audiences throughout Europe—including German officers during World War I. She performed at some notorious private parties (once she rode naked at a lesbian fête in Paris), and even played a few opera houses in Italy.

Convicted of spying in France without a shred of evidence, the infamous courtesan was sentenced to death by firing squad. Wearing a long grey dress and gloves, she refused to be bound or blindfolded when she faced her execution at dawn.

SOURCE: *An Underground Education*, Richard Zacks. New York: Doubleday, 1997

Divine Brown

(1969 -)

Born Stella Marie Thompson in San Francisco, California, this American street-walker gained public recognition when she was caught having oral sex with British actor Hugh Grant, in a car on Hollywood's Sunset Boulevard strip in 1995. Both Brown and Grant were arrested causing considerable damage to Grant's public image. Brown, however, made a considerable amount of money from the ensuing publicity and has appeared on a number of television shows.



PHOTO: ROBB'S OFFICIAL CELEBRITY OOPS!

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27. Engagement in sex work should not be considered grounds for limiting sex workers' ability to cooperate, unite and create associations to express their opinions; engage in collective bargaining; and advocate for their rights.

X. Freedom of Movement

Sex workers have the right to leave any country, including their own, and to return to their own country. In respect of this right,

28. Engagement in sex work should not be considered grounds for limiting any person's right to leave or return to her or his own country, and any return must be conducted with full regard for her or his safety and security.

XI. Asylum

Sex workers have the right to seek asylum and cannot be returned to situations of inhuman and degrading treatment or torture. In respect of this right,

29. Governments should ensure that those participating in sex work have the right to seek asylum, and that they will not be returned to unacceptable abusive situations.

XII. Public Participation

Sex workers have the right to participate in the cultural and public life of their society. In respect of this right,

30. Sex workers should have the right to participate in the formulation of the laws and policies that affect them. □

♥ This English version of the *Declaration of the Rights of Sex Workers in Europe* has been edited for clarity. The unedited version is available in French, German, Spanish and Russian, as well as English, on the ICRSE website at: <http://www.sexworkeurope.org>

