



'Decent work for sex workers' as ILO's centenary treat

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Towards a more inclusive ILO

The International Labour Organisation (ILO) has been a gift for workers worldwide. This year marks 100 years that this United Nations (UN) organisation has offered an international space to negotiate improvements in working conditions and a firmer guarantee of workers' rights. Its unique tripartite structure, bringing together representatives of workers, employers and governments, has amplified workers' voices and, thus, contributed to a more level playing field for them. The international legal framework negotiated and ratified at the annual International Labour Conferences (ILCs) is a key normative benchmark for workers' rights in the ILO's 187 member states.

Over time, the platform that the ILO has provided to workers has become more inclusive. Initially, the conditions of industrial workers were seen as the epitome of the capitalist labour process and ILC debates centred around these conditions' improvement. Departing from the related focus on male waged workers and formal employment relations, the debates on informal work that emerged in the 1970s have also paid attention to service providers outside the factory gate. Moreover, these debates have acknowledged the diversity of contractual arrangements in the world of work. The decent work framework proposed during the 1999 ILC enshrined this acknowledgement by asserting the right of all workers – working for a wage, for one's own account or for a family enterprise, working with or without a formal contract - to decent labour conditions. Most recently, with the Domestic Workers Convention ratified in 2011, the ILO has set a landmark of its recognition of and protection for a feminised informal occupation performed in the private sphere of the home.

Towards a labour approach to sex work

While often referred to as the 'world's oldest occupation', sex work, however, has by and large been excluded from the ILO's space for workers' rights guarantees. Largely undertaken by women, but also by transgender and male workers, sex work comprises of diverse activities that range from direct sexual services in flats, brothels or the street via erotic dance and porn acting to phone sex, among others (Cohen et al. 2013: 4). To date, if at all, the UN organisation is most prominently concerned with sex work as an occupation that it considers harmful for children as well as involving a high risk of forced labour and HIV infection.

Indeed, the risks that sex workers face are many and grave. Most prominently, they include sex workers' higher exposure to violence compared to other occupations, exploitative employment relations and uncertain income. These risks are not inherent to the services that sex workers provide, however, but shaped by the stigma and criminalisation that most sex workers experience. For instance, if peep shows, bars, or massage parlours have to hide the fact that sex work happens, it is unlikely that condoms or information about safe sex are available (Schaffauser 2015: 1). Besides unprotected sexual practices, lower prices or even clients' unwillingness to pay are common effects of a criminal approach to sex work, e.g., in the form of punishing sex workers' clients. Laws criminalising sex workers or third parties are used by the police to close workplaces, rather than to stop exploitation (Schaffauser 2015: 2). Even in contexts, where, in theory, sex work is covered by labour legislation, in practice, governments do not enforce labour protections for sex workers that are afforded to workers in other sectors. This absence of enforcement reproduces exploitative working conditions (Empower Foundation 2017: 3, 8).

The common conflation of sex work with human trafficking has played a key role in increasing the risks that sex workers face. The Thai sex worker organisation Empower Foundation (2017: 11) describes how police confiscation of condoms for use as evidence in anti-trafficking measures not only undermines national health policy commitments to safer sex, but also places a barrier to sex workers asserting their right to workplace safety. The recent US law to Fight Online Sex Trafficking Act (FOSTA) aims to prevent trafficking by closing down advertising websites that host sex workers on their platforms. In fact, the law increases risks for sex workers who are no longer in a position to screen their customers for violent or fraudulent behaviour based on 'bad client lists'.

Sex worker organisations have long demanded to address the decent work deficits in the industry through a labour approach rather than through measures of criminal law (e.g. Empower 2016). The recognition of sex work as work - a key demand of sex worker organisations worldwide - is the basis for such a labour approach to sex work. This demand underlines that sex workers are entitled to labour rights equal to workers in other industries, including 'enabling' collective rights such as freedom of association and the right to collective bargaining. This implies sex workers' involvement in policy debates at the national and international level, combating the epistemic violence inherent in policy measures that affect sex workers' livelihoods without considering their experiences and demands (Heumann et al. 2016: 181).

Welcome sex workers to the ILO!

The ILO as the premier international organisation for labour rights protection has yet to come out as an advocate for decent work for sex workers. This contrasts with the support that Amnesty International and other human rights organisations have offered to sex worker organisations' demand for the decriminalisation as a way to strengthen sex workers' bargaining power, reduce violence and improve their incomes and health. Cautious efforts within the ILO to address decent work deficits in sex work through explicit recognition of the sex industry as an economic sector in the 1990s were subsequently silenced (Heumann et al. 2016: 172). Despite an implicit focus on sex work – vaguely referred to as 'sexual exploitation' - the debate around forced labour during the 2014 ILC did not seize the opportunity to shift the debate on sex work from a criminal towards a labour approach (Heumann et al. 2016: 169).

An ILO allying with sex workers will have the double benefit of addressing both the decent work deficits in the sex industry and deficits in the ILO's decent work agenda. Similar to the catalytic role that the ILO played in supporting decent work for domestic workers, for sex workers, the organisation can help to overcome the stigma and exclusion that sex workers face. ILO support will amplify sex workers' voices, that way conveying their lived experiences and demands more powerfully to trade unions, policy makers and wider society. For the ILO itself, advocacy for decent work for sex workers will strengthen its grounding in an increasingly informalised, feminised and digitalised world of work. Working towards strengthening sex workers' collective rights will contribute to greater effectiveness of the ILO's effort to combat forced labour in the sex industry. Last but not least, through the space provided by the ILO, sex workers' creative campaigns that simultaneously address the political structures of migration governance, economic austerity and social stigmatisation as root causes of decent work deficits in the sex industry can inspire workers in other industries.

A birthday is an occasion to invite old and new friends and treat them, much more so if a centenary is celebrated! As workers whose labour rights are both questioned and violated, sex workers deserve to be treated to a seat at the ILO birthday party. Welcoming sex workers to the party and, subsequently, to the ILO's negotiating table means sex workers win a powerful ally and a more inclusive and vibrant ILO. It will make the ILO's centenary party complete.

A slightly amended version of this column has been published in German in the volume S. Ferenschild (ed.) "Wünsche für die Zukunft - Was ExpertInnen der ILO empfehlen" [Wishes for the Future – Experts' Recommendations for the ILO]. Bonn: Institut SÜDWIND. For the German version with full references, see: <https://suedwind->

institut.de/files/Suedwind/Publikationen/2018/2018-33%20Wuensche%20fuer%20die%20Zukunft.%20Was%20ExpertInnen%20der%20ILO%20empfehlen.pdf

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