



NAVIGATING THE NARRATIVES

*Sex work, the media, and online
platforms*

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DISCUSSION DOCUMENT**

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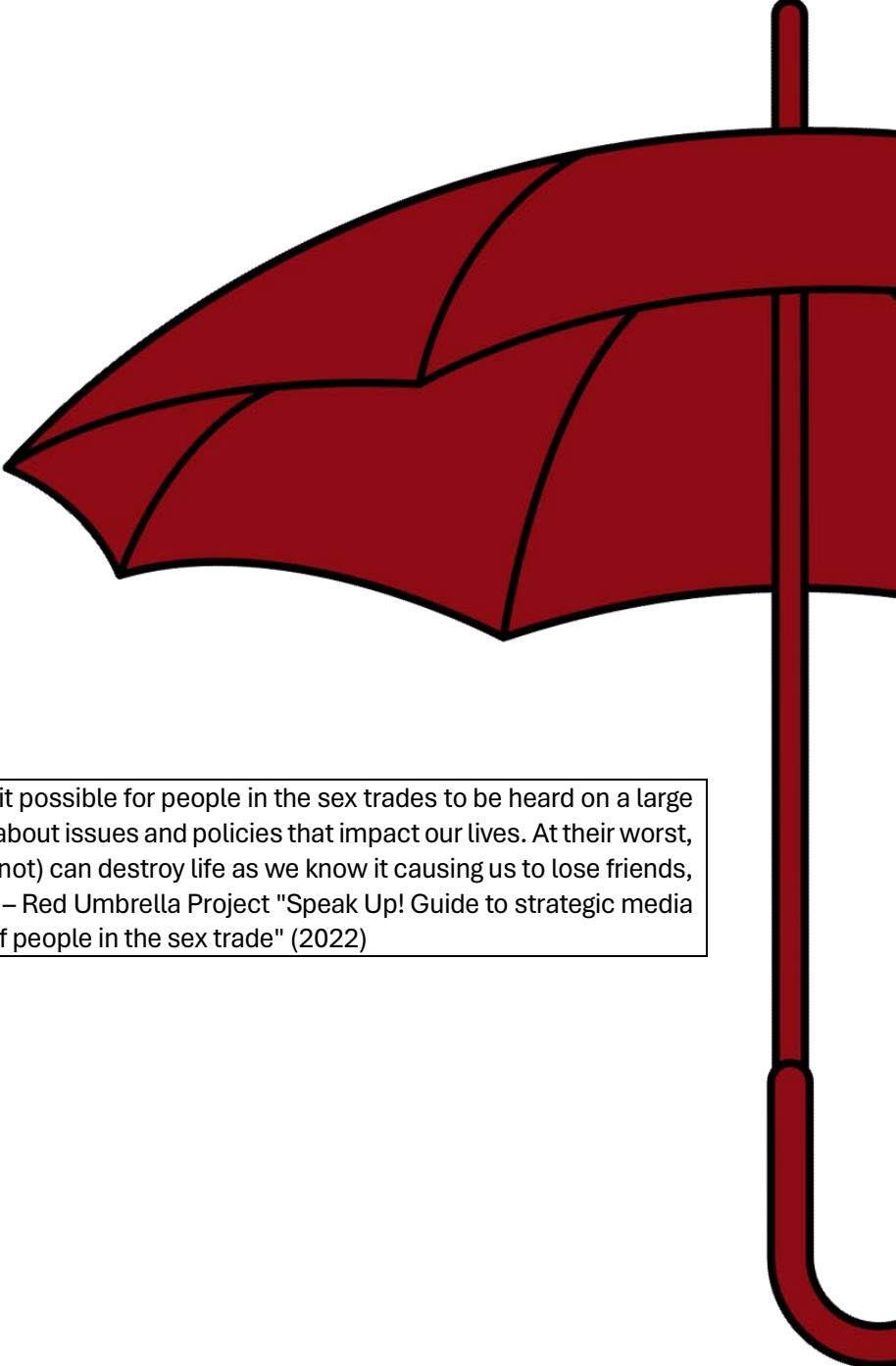
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“At best, interactions with media make it possible for people in the sex trades to be heard on a large scale and participate in public dialogue about issues and policies that impact our lives. At their worst, interactions with media (consensual or not) can destroy life as we know it causing us to lose friends, family, housing, livelihoods, and more.” – Red Umbrella Project "Speak Up! Guide to strategic media tools and tactics to amplify the voices of people in the sex trade" (2022)

ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CGE	Commission for Gender Equality
CSE	Child Sexual Exploitation
CSOs	Civil society organisations
CRC	Convention on the Rights of the Child
FPB	Film & Publications Board
GBV	Gender-based Violence
ICT	Information and Communication Technology
IOM	International Labor Organisation
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual individuals (and more)
MMA	Media Monitoring Africa
NCOSE	National Centre on Sexual Exploitation
OCSE	Online Child Sexual Exploitation
OF	OnlyFans
OGBV	Online Gender-based Violence
POPIA	Protection of Personal Information Act 4 of 2014
PTSD	Post-traumatic Stress Disorder
SALRC	South African Law Reform Commission
SAPS	South African Police Service
SARS	South African Revenue Service
SWEAT	Sex Workers Education and Advocacy Task Force
TIP	Trafficking in Persons

TERMINOLOGY

Media Monitoring Africa (MMA) acknowledges that terminology relating to sex work may vary depending on one’s support for a particular governance model. The table below is to avoid ambiguity around specific terms that are used throughout this discussion document.

Community guidelines	A set of standards created and enforced by online platforms to mitigate harmful or abusive conduct. These standards usually define the parameters of content which is permissible on the platform, provide guidance on privacy and data governance, state specific rules relating to intellectual property, and general legal compliance. Further, community guidelines explain recourse if a violation occurs on the platform.
Content moderation	The processes and systems that online platforms use to screen user-generated content and determine whether it contravenes community guidelines, and, subsequently, whether it should be taken down or removed.
Cybercrime	A criminal act perpetrated through the use of computers, computer-related devices, the internet, or any other information technology. Cybercrimes may also be referred to as “computer crimes”, “e-crimes”, or “technology-enabled crimes”. ¹
Gender-based Violence	Violence, whether sexual, physical, emotional, economic, or digital, for example, which is perpetrated against an individual based on their factual or perceived gender, sex, sexual orientation, and/or gender identity. The act of violence may take place in public or private and does not need to occur repeatedly. ²
Governance model	The legal and policy framework adopted by a particular country with respect to sex work.
Harassment	An umbrella term for an act or threat of an abusive act that causes harm or inspires the belief that harm may be caused to an individual. Harassment may manifest in various forms and does not need to occur repeatedly.
Films and Publications Board	The body established by the Films and Publications Act ³ that regulates the creation, production, possession, and distribution of films, games, and certain publications. The Board is also responsible for the classification of content.
Low-volume sex work	Sex work agencies that see a lower number of sex-buyers weekly as opposed to, for example, brothels. These agencies may be regarded as more desirable and offer buyers a “girlfriend” experience.
Online gender-based Violence	Gender-based violence which is carried out, in part or fully, through the use of information and communication technologies. ⁴
Oversight Board	A group of experts who are tasked with making decisions regarding content on Facebook and Instagram and issuing recommendations to these platforms on the promotion of free expression.

¹ Phillips et al, ‘Conceptualizing Cybercrime: Definitions, Typologies and Taxonomies’ Forensic Sciences Volume 2 Issue 2 (2022) (accessible [here](#)).

² Council of Europe, ‘What is gender-based violence’ (undated) (accessible [here](#)).

³ Films and Publications Act 65 of 1996 (accessible [here](#)).

⁴ APC, ‘Online gender-based violence: A submission from the Association for Progressive Communications to the United Nations Special Rapporteur on violence against women, its causes and consequences’ (2017) (accessible [here](#)).

Pimp	Used colloquially to refer to a person who manages one or more sex workers' practices and benefits from the proceeds of sex work.
Platform-generated content	Content that is generated by a platform or site itself. This is usually automated.
Trafficking of persons	The recruitment, transportation, transfer, harbouring or receipt of persons, through the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person. This is done for the purpose of exploitation. ⁵
User-generated content	User-generated content or USG is content that is generated by users of a platform or site for example images, graphics, and videos uploaded by users.

⁵ See Article 3(a) of The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) (accessible [here](#)).

INTRODUCTION

In an essay published in 1962, Everett Hughes, an American sociologist whose expertise was the study of occupations, wrote about the notion of “dirty work”. This referred to select occupations that are generally considered immoral but carry out the wishes of supposedly upstanding members of society.⁶ Hughes argued that the phenomenon is common in all communities. Although the essay was written in view of Nazi Germany, the principles remain applicable today for various types of work including sex work given the way it is viewed in society. The framing of sex work as legitimate work that is worthy of formal regulation is divisive. The way in which sex work is reported in the media, including the treatment of sex workers who operate on- and offline, is a reflection of its contentious nature.

O’Connell Davidson notes in their book that “Since prostitutes* do not speak with one voice on the subject, it is very easy for theorists to ‘cherry pick’ to support their perceptions about prostitution”.⁷ The same is often true for journalists reporting on stories about sex work. The angle of the story is susceptible to inherent perceptions and biases about the trade. That is to say that where there already exists prejudice in the mind of the reporter, the narrative of the story may perpetuate harmful public discourse on sex work.

In light of this, this document aims to support and guide journalists reporting on sex work. It also explores how online platforms respond to and shape public perceptions of sex work. Given the complexities around this subject and current law reform, MMA seeks to support members of the media reporting on sex work stories to do so consciously and in an educational manner.

Part one provides an overview of the various governance models applicable to sex work and, thereafter, explains the legal position in South Africa including responses to ongoing law reform. Part two identifies the trends and dominant media narratives about sex work in South Africa over the last few years. We assess reporting by traditional media and the role of digital platforms in informing more contemporary modes of sex work. Ultimately, we propose a set of recommendations and guidelines for members of the media on how to adopt an inclusive and conscious reporting style when publishing stories about sex workers.

Understanding the scope of sex work

At this juncture, it is important to note the term “sex worker” is preferred because of the stigma and connotations which may be attached to other terms used to refer to sex workers. Open Society Foundation provides a useful definition for sex workers as “...adults who receive money or goods in exchange for consensual sexual services or erotic performances, either regularly or occasionally.”⁸ Another definition, which aligns with the first, is provided by Cheryl Overs in her book where she states that “Sex workers are women, men, and transgender people who receive money or goods in exchange

⁶ EC Hughes, ‘Good People and Dirty Work’ (1962) Social Problems Volume 10, Issue 1 (accessible [here](#)).

* This document strives to use inclusive language which seeks to minimise harm. As such, the words ‘prostitute’ or ‘prostitution’ are used only in the context of extracting direct quotations from relevant resources and materials.

⁷ O’Connell Davidson, ‘Prostitution, Power and Freedom’ (1999) University of Michigan Press, Volume 67 at 114 (accessible [here](#)).

⁸ Open Society Foundation, ‘Understanding Sex Work in an Open Society’ (2019) (accessible [here](#)).

for sexual services, and who consciously define those activities as income generation even if they do not consider sex work as their occupation”.⁹

We recognise that sex work may take place in-person through, for example, street-based interactions, in brothels, escort agencies, or massage parlours, or digitally, through, for example, camming or phone sex services. Sex work excludes rape, sexual slavery, human trafficking, or child sexual exploitation (CSE) and this document does not discuss best practice for reporting on crimes and violations of this kind.

Methodology

Our research adopts a mixed method approach. It primarily entailed desktop research using data analysis by Dexter, an online tool that allows users to navigate media reports and provides insights on media trends over various periods. The desktop research was conducted in tandem with interviews with various experts, including researchers, activists and allies, and former sex workers who hold various perspectives on this subject.

⁹ Overs, ‘Sex Workers: Part of the Solution: An analysis of HIV prevention programming to prevent HIV transmission during commercial sex in developing countries’ (2002) (accessible [here](#)).

AN OVERVIEW OF THE GOVERNANCE MODELS

Before delving into an assessment of the narratives surrounding sex work in South Africa, it is useful to sketch the various governance models that a state may apply to sex work. There are, of course, nuanced advantages and disadvantages which have been raised with respect to each governance model; these are not fully explored in this discussion document. Rather, MMA provides a high-level overview of the models.

Criminalisation

The first model is criminalisation which outlaws both the buying and selling of sex. This model, applied in many jurisdictions, can make sex workers more vulnerable to violence with respect to, for example, their engagements with law enforcement offices and restrict access to health care and other welfare benefits.¹⁰ Other consequences associated with this model include eviction, surveillance, and deportation.¹¹ Advocates for criminalisation, such as Demand Abolition,¹² contend that decriminalisation or legalisation (discussed below) increases human trafficking, expands the illegal market for sex work, and that regulatory requirements are unlikely to be adhered to.¹³

The Nordic/ Swedish model

The second model, commonly referred to as the Nordic or Swedish Model, criminalises the practice of purchasing sex and third-party involvement i.e. the “managing” of sex workers.¹⁴ This is meant to reduce or end the demand for sex work and, according to the model’s proponents, ultimately promote gender equality.¹⁵ Opponents of the model contend that it is the policing, often racialised, of those in the trade.¹⁶ It has been adopted in, for example, Ireland, Canada, and France.

Decriminalisation

Thirdly, there is decriminalisation, which removes all punitive measures associated with sex work for all parties: sex workers, buyers, and third parties. Countries which have decriminalised sex work include New Zealand, Australia, Germany, the Netherlands, and Mozambique.¹⁷ Studies on the economic implications of decriminalisation reveal that this model could potentially lead to income tax benefits, as well as significant savings by the criminal justice system and public health sector.¹⁸

¹⁰ Sanders and Campbell, ‘Criminalisation, protection and rights: Global tensions in the governance of commercial sex work’ (2014) (accessible [here](#)).

¹¹ Johnson and Porth, ‘Sex Work Governance Models: Variations in a Criminalised Context’ (2020) *Sexuality Research and Social Policy* Volume 18, 233 – 245 (accessible [here](#)).

¹² See ‘About Us’ page on DemandAbolition (undated) (accessible [here](#)).

¹³ Demand Abolition, “Why Prostitution Shouldn’t Be Legal” (undated) (accessible [here](#)).

¹⁴ Above n 10.

¹⁵ Vuolajärvi, ‘Criminalising the Sex Buyer: Experiences from the Nordic Region’ Centre for Women, Peace and Security (2022) (accessible [here](#)).

¹⁶ Id.

¹⁷ See Interactive Map on WiseVoter (accessible [here](#)).

¹⁸ Srsic et al, ‘The Economic Consequences of Decriminalizing Sex Work in Washington DC – A Conceptual Model’ *Societies*, MDPI Volume 11 Issue 3 (2021) (accessible [here](#)).

Legalisation

Lastly, the legalisation model means that in addition to the removal of punitive measures, sex work is proactively regulated by the State through the imposition of registration and perhaps licensing requirements.¹⁹ Legalisation may only relate to certain conduct. For example, in England and Wales, third-party involvement remains unlawful but the selling and purchasing of sex is not.²⁰

THE LEGAL POSITION IN SOUTH AFRICA AND RESPONSES TO ONGOING LAW REFORM

South Africa's legal history with sex work dates back to colonialism with the passing of the Contagious Diseases Act in 1864, 1866, and 1869.²¹ Under the apartheid regime, sex work was criminalised in terms of the Immorality Act 23 of 1958. In the democratic dispensation, sex work remains criminalised in South Africa in terms of the Sexual Offences Act²² and the Criminal Law (Sexual Offences and Related Matters) Amendment Act.²³

Since 1997, The South African Law Reform Commission (SALRC) has conducted numerous investigations and, subsequently, published reports on whether sex work should be decriminalised in South Africa.²⁴ Its latest report, a collaboration with the Department of Justice and Correctional Services, was published in 2017 and recommended two approaches.²⁵ First, that full criminalisation should be retained in South Africa. Second, that criminal sanctions should be retained for brothels and third parties. Interestingly, the SALRC took the view that legalisation would result in an "extremely dangerous cultural shift" which would aggravate gender-based violence (GBV) across the country and normalise sexual coercion.²⁶ In response, the Asijiki Coalition for the Decriminalisation of Sex Work (Asijiki), a group of sex workers, activists, and human rights defenders who support decriminalisation, shared five criticisms of the SALRC's recommendations.²⁷ Namely, that the report was crafted with inherent bias, it included an illogical justification for continued criminalisation, it failed to provide sex workers' perspective, there was inadequate theorising of work and exploitation, and lastly, it did not adequately reflect research to counter concerns about public health, HIV/AIDS, and sex work.

In December 2022, the Minister of Justice and Constitutional Development, Ronald Lamola, announced that the government had begun the decriminalisation process and issued a call for public comment on proposed legislative changes.²⁸ The deadline for comments lapsed on 31 January 2023. In response to

¹⁹ Sex Workers and Allies Network and Yale Global Health Justice Partnership, 'The Law & Sex Work: Four Legal Approaches to the Sex Sector' (2020) (accessible [here](#)).

²⁰ Karlsson, 'Sex Work Policy Worldwide: A Scoping Review' Sexuality and Culture Volume 6 (2022) (accessible [here](#)).

²¹ Nembudani, 'Sex work in South Africa: A history of ineffective laws' Mail & Guardian (2023) (accessible [here](#)).

²² Sexual Offences Act 23 of 1957 (accessible [here](#))

²³ Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (accessible [here](#)).

²⁴ See presentation by Asijiki, 'South African Law Reform Commission's Report on 'Adult Prostitution: Overviews and Critiques' (2017) (accessible [here](#)).

²⁵ South African Law Reform Commission, 'Report on Sexual Offences and Adult Prostitution' (2015) (accessible [here](#))

²⁶ Id.

²⁷ Above n 25.

²⁸ See media statement by South African Government, 'Minister Ronald Lamola on Criminal Law Amendment Bill of 2022 – decriminalisation of sex work' (2022) (accessible [here](#)).

this announcement, there has been increased reporting as lobby groups, lawyers, and activists engage on issues surrounding decriminalisation.

The Commission for Gender Equality (CGE) has welcomed the prospect of decriminalisation, noting its support for economic and social interventions to sex work as opposed to a continuation of a penal approach.²⁹ In July 2023, over 100 sex workers and allies marched to Lamola's office to deliver a memorandum relating to the shortcomings in the Bill as well as their frustrations over the slow progress of the law reform process.³⁰ At the time of writing, Lamola had not yet responded to the memorandum.

Outside of these developments, stories about sex work are generally severely underreported in South Africa. With this context in mind, it is clear that stakeholders in South Africa view sex work at opposite ends of the spectrum. Accordingly, responsible and informative journalism is a powerful tool that may inform the public of the complexities surrounding sex work, neutralise tensions, counter harmful speech, and help readers overcome common prejudices and misconceptions surrounding sex work. Like all persons in South Africa, the constitutional rights to human dignity, freedom of expression, and privacy extend to sex workers regardless of views that argue against it.

²⁹ See media statement by the Commission for Gender Equality, 'Commission for Gender Equality welcomes call for public comment on sex work' (2022) (accessible [here](#)).

³⁰ Gitilli, 'Sex workers march to Lamola's office over decriminalisation bill' GroundUp (2023) (accessible [here](#)).

Examples of common prejudices and misconceptions that sex workers may encounter:³¹

- The perceived dichotomy of sex workers as helpless and absolute victims or luxury escorts.
- The conflation between sex work and human trafficking.
- The association of sex work with criminal activity.
- The perception that sex workers suffer from nymphomania.
- The idea is that sex workers commercialise their bodies. Depending on the type of sex work in question, it is the strength of their physical labour which provides the service. Sex workers' bodies are not "for sale".

³¹ A Miller, 'The responsible guide to talk about sex work in the media' (2018) (accessible [here](#)).

TRADITIONAL MEDIA REPORTING ON SEX WORKERS

Where readers of traditional media have little to no contextual understanding of sex work and its nature, there is a heightened duty on journalists to ensure that the stories are reported accurately and that they have considered varying angles.

The role of media in shaping public narratives through reporting

Narratives shape how we understand concepts, ideas, and social norms. Narratives around sex workers have, to a large degree, positioned women and individuals who identify as women as victims who are being commodified and lack the agency to emancipate themselves from abuse.³² As one of the first sources of information through which news is reported, the media determines the lens through which the public understands sex work.³³ By consistently incorporating the lived experiences of sex workers, journalists can provide a counter-narrative on the discourse surrounding sex work.³⁴

In Victoria, Canada, a study was conducted to understand the narratives of newspapers reporting on sex work between the periods of 1870-1920 and 1980-2004. The five narratives that emerged from this study were stories relating to slavery, risk, contagion, culpability, and societal failures.³⁵ In the period between 1870-1980, data indicates that newspaper articles on sex work were mainly related to crime and court proceedings with a reoccurring thread of contagion, culpability, and containment.³⁶ This can be attributed to law enforcement agencies and legislators' attempts to curb sex work through criminalisation. Where crimes were committed against sex workers in the line of their work, the narratives were seemingly premised on holding sex workers responsible for crimes committed against them.³⁷

In the period between 1980-2004, traditional media narratives around sex work centred around risk, slavery, and societal failure as reports and articles were focused on the abuse of sex workers by “pimps”³⁸ and the notion that sex workers were carriers of sexually transmitted diseases and infections. Through this study, one can observe the shift in traditional media narratives around sex work, and how the shift is based on prevailing social norms on what is perceived as right and wrong. Reporting patterns through the traditional media climate in South Africa are also seemingly based on prevailing social norms.

Countries where sex work has been legalised provide an interesting case study on the level of influence that the media has. For example, a study on media narratives post-decriminalisation in New Zealand found that media narratives during this period encouraged acceptance of sex work.³⁹ Sex work was

³² Poppi & Sandberg, 'A bene placito: Narratives of sex work' (2020) 294 *Narrative Inquiry* Volume 30 Issue 2 (accessible [here](#)).

³³ *Id.*

³⁴ Above n 32.

³⁵ Hallgrímsdóttir et al, 'Sporting girls, streetwalkers, and inmates of houses of ill repute: Media narratives and the historical mutability of prostitution stigmas' (2008) *Sociological Perspectives* Volume 51 Issue 1 (accessible [here](#)).

³⁶ *Id.*

³⁷ Above n 35.

³⁸ Above n 35.

³⁹ Easterbrook-Smith, 'Sex work, advertorial news media and conditional acceptance' (2021) *European Journal of Cultural Studies* Volume 24 Issue 2 (accessible [here](#)).

decriminalised in New Zealand in 2003, and in the aftermath of the decriminalisation process, sex work was openly advertised on traditional media platforms.⁴⁰ The advertising of sex work in newspapers was also framed in a manner that promoted “low volume” sex work agencies.⁴¹ In this way, New Zealand provides a useful case study of the media’s influence even after the conclusion of law reform process and, through advertorial frames, can shape a particular kind of sex work as “acceptable”.

Noting that South Africa is a deeply religious and cultural nation, Megan Lessing, the media advocacy officer for the Sex Work Education and Advocacy Taskforce (SWEAT) who we interviewed, pointed out that media reports on sex work in South Africa are rarely empowering. In her experience, stories generally relate to violence that has been perpetrated against sex workers and pieces about the various governance models. This limited reporting makes it difficult for the public to humanise sex workers because they are often portrayed as victims or criminals without further nuance. Siphindile Cele, a former sex worker and current member of Exit Solutions, shared that it is often up to civil society organisations (CSOs) and advocacy groups to share more diverse stories.

The importance of terminology

It goes without saying that neutrality is a foundational principle of journalism; this is particularly necessary in a time of polarised politics and an increase in populism.⁴² Ojala argues that while there is no singular definition of “neutrality” in journalism, it is comprised of non-interference and impartiality. The first means that members of the media should not interfere with or influence the events they report on and in this way, they should detach from these events and only share the facts at hand; the second denotes non-alignment with any political position.⁴³

The debate about terminology in the context of sex work is not novel. During an interview with Dr. Marcel van der Watt, a director at the National Centre on Sexual Exploitation (NCOSE) and a former human trafficking police investigator, the importance of using the correct terminology when reporting on sex work was canvassed. Van der Watt proposes the use of terminology such as “sex trade”, “prostitution”, “prostituted person” or “commercially sexually exploited person”. Van der Watt explained that the term “sex work” is incorrect because it negates the inherently violent nature of “prostitution” and obfuscates the multi-layered physical, psychological, and sexual violence experienced by women and girls. It also suggests that sex work is legitimate and consensual and that the persons selling sex are empowered through it. According to van der Watt, This is entirely dislodged from reality and many women, with very few options, are pressured by pro-decrim lobby groups to claim, “sex work is work”. Prostitution preys on vulnerability and so do the men who purchase sexual access to the bodies of women and children. He contends sex workers are often victims of difficult socio-economic circumstances which are seamlessly exploited by third parties, traffickers, and sex buyers. Cele shared a similar sentiment – “sex work” misleads those outside the trade into thinking it is a chosen career. Cele explained that in other types of employment, people draft CVs and they attend interviews for a particular position; the sex trade is unique and circumstantial and to glamourise it can be insulting.

⁴⁰ Id.

⁴¹ Above n 39

⁴² Ojala, ‘Is the Age of Impartial Journalism Over? The Neutrality Principle and Audience (Dis)trust in Mainstream News’ (2022) *Journalism Studies* Volume 22 Issue 15 (accessible [here](#)).

⁴³ Id.

Sonke Gender Justice and Asijiki view sex work as a job that falls under the informal economy.⁴⁴ Thus, it should be framed in this way rather than as an abstract political or moral issue. SWEAT contends that “sex worker” is a neutral term that focuses on the conditions under which sexual services are sold.⁴⁵

Taking the above into account, MMA supports an approach to terminology that does not intend to further stigmatise those in the sex trade and does not sensationalise any aspect of the trade.

Media freedom and the duty of care

The duty of care for reporters and journalists is outlined in the Press Code which reads:

“The media shall:

- 1.1. Take care to report news truthfully, accurately, and fairly;
- 1.2. present news in context and a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarization.”⁴⁶

Where readers of traditional media have little to no contextual understanding of sex work and its nature, there is arguably a heightened duty on journalists to ensure that the stories are reported accurately and contain varying angles. A key aspect of the duty placed on media outlets is to curb the spread of misinformation through factual reporting. In *National Media v Bogoshi*, which broadly dealt with defamation arising from the publication of a news article, the court noted that members of the press should not be left with the impression that they have a license to lower the standards of care which must be observed.⁴⁷ Where members of the media do not uphold this duty, the Press Council, as the relevant Ombudsman, is empowered to receive and investigate complaints from members of the public.

Frequency and consistency in reporting

According to the Dexter search results on the reporting of sex work in South Africa between 2018 to date a, sex work is significantly underreported in traditional media and online media platforms. Published stories about sex workers account for 23 per cent of the publications in mainstream media. Of the 23 per cent, the stories that are reported focus on the negative impacts of sex work such as the abduction of children to be used as sex workers, the murder of sex workers, and the taboo natures of sex workers belonging to the LGBTQIA+ community.

Since Lamola’s announcement, local news has been actively reporting on the legislative process for the decriminalisation of sex work. Most publications on sex work in 2022 placed focus on the ineffective past laws, public calls for participation in the legislative process, commentary from political leaders and

⁴⁴ See Factsheet by Asijiki, ‘Sex Work and Labour’ (2015) (accessible [here](#)).

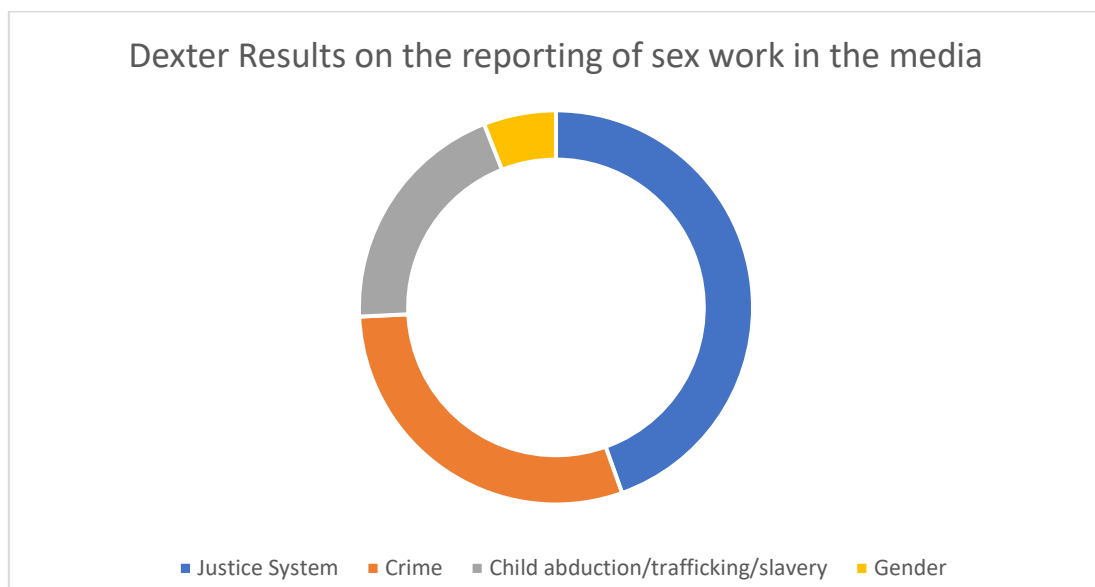
⁴⁵ See presentation by SWEAT, ‘Sex work research and advocacy: research as a means to empower and advance the rights of sex workers’ (undated) (accessible [here](#)).

⁴⁶ Press Code of Ethics and Conduct for South Africa Print and Online Media 2022 (accessible [here](#)).

⁴⁷ *National Media Ltd. and Others v Bogoshi* ZASCA 94; 1998 (4) SA 1196 (SCA); [1998] 4 All SA 347 (A) (29 September 1998) at para 31.

policymakers as well as public figures supporting efforts to decriminalise sex work.⁴⁸ Accordingly, since the draft bill decriminalising sex work, the public narrative in South Africa has shifted towards support and collective effort to humanise and recognise the rights of sex workers.

Jayne Arnott, when asked whether the media is doing enough to create public understanding and knowledge on sex work, remarked that currently, media reports on sex work are largely reactive. Arnott is a human rights advocate and sexual and reproductive health expert at Sonke Gender Justice. When sex work is reported on, the stories “peak for a short period then die away” says Arnott. Some proposed solutions to growing public knowledge on sex work that arose from our interaction with Arnott include partnerships between CSOs and the media to play a more proactive role in educating the public through concerted research and advocacy efforts.



Representation and intersectionality

Sex work is often viewed solely through the lens of human trafficking, and this is evidenced, for example, in by the absence of protections for sex workers in international instruments and the emphasis on human trafficking instead. One such example is the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which prohibits the exploitation of women for “prostitution” and calls for the adoption of legislative reforms to protect women from being exploited for “prostitution”.⁴⁹

In 2020, the CEDAW Committee published a general comment on the Trafficking of Women and Girls in the Context of Global Migration.⁵⁰ The general comment infers a causal link between migration trends

⁴⁸ See above n 21; Mahlakoana, ‘Sex work decriminalisation must be handled with care, says the ANC’s Ramakgopa’ EWN (2022) (accessible [here](#)); Mokhoali, ‘Justice department set for further consultation in efforts to decriminalise sex work’ EWN (2022) (accessible [here](#)); Shiko, ‘Gender Commission welcomes move to decriminalise sex work’ OFM (2022) (accessible [here](#)).

⁴⁹ Convention on the Elimination of all Forms of Discrimination Against Women at article 6 (1981) (accessible [here](#)).

⁵⁰ Committee on the Elimination of Discrimination against Women, ‘General recommendation No. 38 on trafficking in women and girls in the context of global migration’ (2020) (accessible [here](#)).

and migrants being exploited for “prostitution” against their will. While it is useful for an international body of highly skilled experts to engage on this topic, what the general comment fails to acknowledge is the distinction between sex work, sexual exploitation, and human trafficking. When the intersection between migration and human trafficking for “prostitution” purposes collide, the concepts of sex work and “prostitution” remain conflated in international law discourse.⁵¹ The conflation of these two concepts has practical consequences for migrant sex workers because they are often subjected to deportation and detention for suspicion of their involvement in human trafficking. One such example is in Germany where the assumption is that 90 to 100 per cent of migrants are sex workers who have been trafficked into the country for this purpose.⁵² In New Zealand, migrant sex work is still criminalised further exposing them to vulnerability.⁵³ With reference to ongoing decriminalisation efforts, a local news report in South Africa titled “Foreign nationals will need work permits to sell sex legally in South Africa” reveals the necessary differentiation between South African sex workers and migrant sex workers. More specifically, the report focuses on the double vulnerability which migrant workers may face as a result of common xenophobic rhetoric.⁵⁴

Another prevalent form of intersection that exists within sex work relates to the health care sector. One of the tests against the criminalisation of sex work known as the SWEAT test questions whether sex workers can access healthcare.⁵⁵ A study assessing the intersection between health care, sex work, and related policies, reveals that the more legislation and policies suppress sex work and affirm that it is a criminal offence, the greater probability that sex workers will be exposed to sexually transmitted diseases. This is a result of abuse of power by their clients and law enforcement officers.⁵⁶ During the COVID-19 pandemic, sex workers were omitted from responses to the global health crisis. In South Africa, 82 per cent of sex workers who participated in a study by Sonke Gender Justice advised that they experienced verbal, emotional, and sexual abuse by law enforcement during the lockdown.⁵⁷ Despite calls to President Ramaphosa to ensure lockdown measures protected the security of sex workers, there [were] grave challenges in accessing contraceptives, abortions, and other health services under lockdown.⁵⁸

In view of the above, it is clear that our reporting patterns in South Africa must take into account relevant current affairs to provide nuanced perspectives on intersecting issues relating to sex work.

⁵¹ Id.

⁵² National Sex Workers Project, ‘Briefing Paper: The consequences of misinformation about sex work and sex workers’ (2020) (accessible [here](#)).

⁵³ Bennachie et al, ‘Unfinished decriminalization: The impact of Section 19 of the Prostitution Reform Act 2003 on migrant sex workers’ rights and Lives in Aotearoa New Zealand’ (2021) Social Sciences Volume 10 Issue 5 (accessible [here](#)).

⁵⁴ Maromo, ‘Foreign nationals will need work permits to sell sex legally in South Africa, says Justice Department’ IOL (2022) (accessible [here](#)).

⁵⁵ Sex Rights Africa Network, ‘An easy guide to sex work law reform: The difference between criminalisation, decriminalisation, legalisation and regulation of sex work’ (2016) (accessible [here](#)).

⁵⁶ Platt et al, ‘Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies’ PLoS medicine (2018) Volume 15 Issue 12 (accessible [here](#)).

⁵⁷ Sonke Gender Justice, ‘Side-lined: experiences of sex workers throughout lockdown’ (2020) (accessible [here](#)).

⁵⁸ Jeranji, ‘COVID-19: Sex workers say they struggle to access contraception, abortion, and other services’ Spotlight (2020) (accessible [here](#)).

Reporting on children

Child sexual exploitation (CSE) cannot be viewed and reported through the same lens as commercial, consensual sex work. CSE can be defined as a form of abuse involving the manipulation and coercion of children to take part in sexual activities for the exchange of goods or money or something else that the child may need.⁵⁹ It may also include offensive exposure to a child to gratify one’s own sexual needs, as well as intimidating and/or grooming a child.⁶⁰ It does not need to be a repeated instance to be reportable.

Given their evolving capacities and vulnerability as a result of their dependency, the law, at the international, regional, and domestic levels, is clear about the heightened duty to protect children. For example:

- Article 3(1) Convention on the Rights of the Child (CRC) provides that, “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”⁶¹
- Paragraph 6 of the Committee on the Rights of the Child, ‘General Comment No. 14 on the rights of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)’ (2013) explains that the “best interests” principle is a threefold concept in that it is i) a substantive right, ii) a fundamental, interpretative legal principle, and iii) a rule of procedure.⁶²
- Article 4(1) of the African Charter on the Rights and Welfare of the Child states, “In all actions concerning the child undertaken by any person or authority, the best interests of the child shall be the primary consideration.”⁶³
- In the South African context, the principle is entrenched in section 28(2) of the Constitution which provides that a “child’s best interests are of paramount importance in every matter concerning the child.”⁶⁴
- Section 7 of the Children’s Act lists certain factors which must be taken into account whenever a provision of the Act requires the best interests of the child standard to be applied. Some of the factors are the child’s age, maturity and stage of development, gender, background, relevant characteristics; the child’s physical and emotional security; and the need to protect the child from any physical or psychological harm that may be caused by subject or exposing the child to maltreatment, abuse, neglect, exploitation, degradation, or violence.⁶⁵

⁵⁹ See Safeguarding Network definition of “Child Sexual Exploitation” (undated) (accessible [here](#)).

⁶⁰ Mabetshe et al, ‘Prevention of Child Sexual Abuse in South Africa: Assessing the Role of Parents, Community Leaders, Educators, and Social Workers’ Dignity: A Journal of Analysis of Exploitation and Violence Volume 7 Issue 4 (2022) (accessible [here](#)).

⁶¹ See Article 3(1) of the UN Convention on the Rights of the Child (1990) (accessible [here](#)).

⁶² See Paragraph 6 of the UN Committee on the Rights of the Child, ‘General comment No. 14 on the rights of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)’ (2013) (accessible [here](#)).

⁶³ African Charter on the Rights and Welfare of the Child (1990) (accessible [here](#)).

⁶⁴ Constitution of the Republic of South Africa (1996) (accessible [here](#)).

⁶⁵ Section 7(1) of the Children’s Act 38 of 2005 (accessible [here](#)).

The number of children who experience CSE in South Africa is staggering. The International Labor Organisation (ILO) estimates that between 40 to 50 per cent of those in commercial sexual work are children.⁶⁶ Outside of this, there is a lacuna in the data on the gravity of this issue. There is, however, ample evidence of the complex secondary trauma of victims/survivors of CSE, the post-traumatic stress disorder (PTSD), and continued stigmatisation they may experience even if they exit the trade.⁶⁷

In view of this, members of the media should strictly adhere to the various considerations when reporting on CSE. Given that stories relating to sex work require nuance, it is arguable that those involving children require even further investigation and caution. UNICEF Europe and Central Asia have shared the following guidelines to journalists reporting on children:⁶⁸

- Do not further stigmatise any child and avoid categorisations or descriptions that expose them to negative reprisals (including additional physical or psychological harm, lifelong abuse, discrimination, or rejection by their local communities).
- Always provide an accurate context for the child's story or image.
- Always change the name and obscure the visual identity of any child who is identified as a victim of sexual abuse or exploitation, a perpetrator of physical or sexual abuse, HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent, and/or is charged or convicted of a crime.
- Where there is a risk of harm or retribution, change the name and obscure the identity of the child.
- Where using the child's identity is in their best interests, protect them against harm and stigmatisation or reprisal.
- Confirm the accuracy of what the child has to say, either with other children or an adult, preferably with both.
- When in doubt about whether a child is at risk, report on the general situation rather than one individual child, no matter how newsworthy the story.

RECOMMENDATIONS FOR TRADITIONAL MEDIA REPORTING

- Members of the media should strive to provide opportunities for sex workers and associated organisations to write opinion pieces for mass media publications through collaboration. Further, it may be useful to interview a minimum of two sex workers in an article that relates to sex work.
- Media training on key definitions relating to sex work to avoid conflating sex work with other associated terms such as exploitation, prostitution, and human trafficking is key. Where formal training is not available, reporters should conduct reasonable research independently and/or consult experts and academics in the field to confirm contemporary and inclusive standards for reporting.
- Remaining conscience of inherent biases and acknowledging contrasting perspectives to promote transparency in a way that allows to formulate readers their own views is critical. In order to support

⁶⁶ Mosia, '16 Days of Activism: Commercial sexual exploitation of children is rampant in South Africa' IOL (29 November 2022) (accessible [here](#)).

⁶⁷ Cole et al, 'The Trauma of Commercial Sexual Exploitation of Youth' Journal of Interpersonal Violence Volume 31 Issue 1 Pages 3 - 203 (2016) (accessible [here](#)).

⁶⁸ See UNICEF Europe and Central Asia, 'Guidelines for journalists reporting on children' (undated) (accessible [here](#)).

media practitioners in overcoming any potential biases, periodic awareness training on sex work should be held by news agencies.

- In instances where a involves a child, the best interests of the child principle must always apply in the threefold manner stipulated by the Committee on the Rights of the Child. To the extent possible, media houses should provide psycho-social support to children who participate in stories reported about them. In instances where the child's personal information will not be adequately protected and there is no overriding public interest justification for publication, the story should be couched in general terms.

ONLINE PLATFORMS AND SEX WORK

“To Big Tech, the sex worker is as indispensable as they are disposable” – Zahra Stardust, ‘What can tech learn from sex workers’ (2020).

The proliferation of sex work using digital platforms

Advancements in Information and Communications Technologies (ICTs) have infiltrated the most intimate aspects of our lives, including the way we date and engage in sexual services.⁶⁹ This has contributed to the proliferation of the use of digital platforms by sex workers to communicate, organise, socialise, and work.⁷⁰ Although, the intersection between sex work and telecommunications is not new. “Call girls” or “cam girls” – sex workers who engage with clients via the telephone or through web cameras respectively – is not a novel concept in sex work.

What is new are the platforms used for sex work and the ways in which they operate. This poses unique challenges for sex workers today, including safety and privacy concerns, unfair implementation of moderation policies (or censorship), and indiscriminate surveillance. In 2018, American federal authorities seized Backpage.com and its affiliate sites due to sex trafficking. Backpage was regarded as one of the largest classified advertising sites which eventually transformed into an online marketplace for transactional sexual engagements.⁷¹ Its chief executive was also implicated in a case involving money laundering. This illustrates that online sex work (also referred to as “platform sex work”), whether direct or indirect, can place sex workers who rely on digital platforms in a precarious position. Given the revenue that digital platforms generate due to sex work, the treatment of sex workers is rather ironic. In 2022, OnlyFans reportedly generated \$2.5 billion in revenue.

⁶⁹ In January 2023, Business of Apps published an article advising that the dating app market made \$5.61 billion in revenue in 2021. In terms of global users, there are 300 million people who use dating apps and approximately 20 million who pay for premium features. See Curry, ‘Dating App Revenue and Usage Statistics’ *BusinessofApps* (2023) (accessible [here](#)).

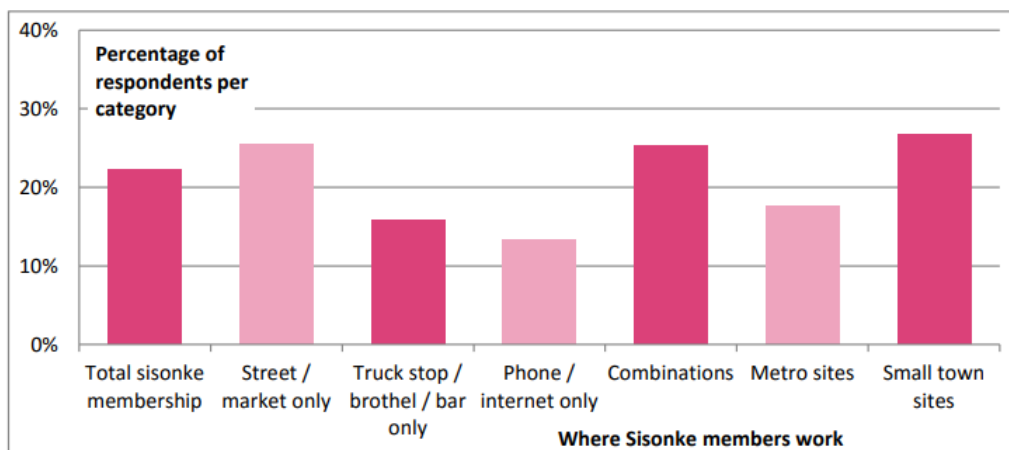
⁷⁰ NSW, ‘Digital security: The Smart Sex Worker’s Guide’ (undated) (accessible [here](#)).

⁷¹ Newsweek, ‘Backpage website shut down, founder charged with 93 counts by FBI in sealed indictment’ (2018) (accessible [here](#)).



Net revenue generated by OnlyFans worldwide from 2020 to 2022. Source: Statista (accessible [here](#))

Figure 12: Where Sisonke members work



A study conducted as part of the evaluation reveals the settings where Sisonke members work. Source: ‘Creating Safe Sapces: An evaluation of the Red Umbrella Sex Work Programme’ by NACOSA and SANAC (2015) (accessible [here](#))

As mentioned earlier in this document, sex work is underreported in South Africa. This is especially the case when it comes to platform sex work which has considerable implications – we cannot combat the issues faced by platform sex workers if we do not know them. When asked about her views on platform sex work in South Africa, Lessing pointed out that there are hierarchies within the sex trade in that street-based sex workers appear to be treated differently from those who operate online. Lessing advised that the ability to rely on platform-based work, which requires reliable access to the internet, digital literacy, and consistent access to private spaces, is a privilege that was particularly pronounced during the pandemic. The increased use of digital platforms such as OnlyFans, Patreon, and Fansley, means that platform work, and the treatment of sex workers by online platforms, are likely to become increasingly

relevant in the South African context. We discuss the trends in frequency and consistency in reporting below.

Frequency and consistency in reporting

Desktop searches of reporting on platform sex work reveal that this type of sex work has not yet been normalised in South Africa. The most reported story concerns the decision by the South African Revenue Services (SARS) to charge value-added tax on OnlyFans users. OnlyFans is a subscription social platform that enables creators to paywall their content for exclusive access subscribers or “fans”.⁷² Although it offers content ranging from cooking, celebrities, or fitness, it has largely become associated with platform sex work. This may be attributed to its more liberal approach to nude content as opposed to other mainstream social media platforms like Instagram and Twitter.⁷³ In January 2021, several local media outlets reported on SARS’s decision to impose a tax on all purchases and subscriptions on the platform⁷⁴ – a particularly questionable move given that sex work is unlawful in South Africa and decriminalisation had not gained much traction at that time. In December 2021, the Daily Maverick published a comprehensive article on the use of OnlyFans in South Africa.⁷⁵ The article focused on the income that sex workers can potentially make on the platform, as well as the prices that some users are willing to spend on the site. On the whole, there is scope for increased and nuanced reporting on platform sex work.

The tension between content moderation and sexual expression

It is the norm for platforms that rely on user-generated content to establish and enforce community guidelines. While content moderation can prevent online platforms from becoming a breeding ground for harmful online behaviour,⁷⁶ the moderation of nudity or sexual content has implications for income generation and the sexual expression of sex workers. Although practices around content moderation are influenced by users’ reactions to particular topics or images, making decisions to restrict or remove certain content is also inherently subjective and may reflect the decision-makers worldviews.⁷⁷ In certain instances, content moderation is a mechanism to reaffirm normative gender norms and even silence women.⁷⁸ This, of course, restricts sex workers’ ability to do their job.

An emerging form of content moderation is shadow-banning – where the visibility of an account is limited without the account owner being aware.⁷⁹ Sex workers have previously expressed concern that

⁷² Vlerick and Van Hove, ‘Revolutionising digital sex work: an analysis of the impact of OnlyFans on sex workers’ Ghent University (2021) (accessible [here](#)).

⁷³ Id.

⁷⁴ Mlambo, ‘SA taxman cashes in on OnlyFans by imposing VAT’ IOL (2021) (accessible [here](#)); and see Head, ‘Yes, SARS has an ‘OnlyFans tax’ – here’s what users in Mzansi pay’ The South African (2021) (accessible [here](#)).

⁷⁵ Schütz, ‘OnlyFans: How South Africans are using racy website to spend and earn money’ Daily Maverick (2021) (accessible [here](#)).

⁷⁶ Arshat and Etcovithc, ‘The Human Cost of Online Content Moderation’ Jolt Digest (2018) (accessible [here](#)).

⁷⁷ Gerrard and Thornham, ‘Content moderation: Social media’s sexist assemblages’ (2020) *New Media & Society* Volume 22 Issue 7 (accessible [here](#)).

⁷⁸ Id.

⁷⁹ Livini, “What is “Shadow Banning?” The New York Times (2023) (accessible [here](#)).

their intersecting marginalisation meant their content was more likely to be shadow banned on mainstream platforms and that specific body types are more likely to be censored.⁸⁰

To overcome problematic practices when moderating content, online platforms should stay abreast of common biases in digital spaces. As online platforms use moderation to restrict sexual expression, they should ensure that this is done reasonably and rationally without limiting sex workers' ability to generate income. Where a platform intends to update its terms of service or community guidelines and there is a significant deviation from its practices, adequate notice should be provided to sex workers.

To understand the role of platforms' code, algorithms, infrastructure, digital tools, rules, and regulations, and how such things impact sex workers, it is important to analyse a given platform's infrastructure. Technical and political challenges in content moderation warrant continued engagement and debate. The factors which contribute to such challenges include the nature and degree of public awareness, understanding, and idiosyncratic experiences.⁸¹

A survey conducted with members of the LGBTQIA+, people of colour, plus sized, and sex workers or educators included some notable results.⁸²

- Respondents shared that they were often not informed why their content had been disabled or removed and were simply told they had violated community guidelines. This opaque reason deepens power imbalances between creators and platforms;
- For plus-size or body-positive creators and/or profiles, their content was more likely to be flagged for "sexual solicitation" or "excessive nudity". One respondent, a plus-size content creator who is a person of colour, expressed that he was accused of violating nudity guidelines despite not showing any private parts in his content leading him to believe that the issue was simply him "showing skin";
- A large number of respondents believed their accounts had been removed erroneously which harmed their ability to engage with their audience.

In discussions regarding content moderation, we must highlight recent decisions by Facebook's Oversight Board, a body of academics, lawyers, and rights experts which seeks to provide independent judgments on questions around freedom of expression online (where an issue arises on Facebook and Instagram).⁸³ In January 2023, the Oversight Board overturned two cases stemming from Meta's decision to remove two Instagram posts that depicted the bare chests of transgender and non-binary persons.⁸⁴ In both instances, the individuals' mamilla were covered. The issue before the Board was whether Meta's decision, which the company contends was reached due to a breach of its Adult Nudity and Sexual Activity Community Standard, was in line with human rights responsibilities applicable to Big Tech. The Board found that the policy is based on a binary view of gender and that it created a barrier to expression for women, trans, and gender non-binary people on Meta's platforms. The establishment of independent boards can provide meaningful insight into the decision-making processes of platforms.

⁸⁰ European Sex Workers' Rights Alliance, 'The impact of online censorship and digital discrimination on sex workers' (2022) (accessible [here](#)).

⁸¹ Pan et al, 'Comparing the perceived legitimacy of content moderation processes: contractors, algorithms, expert panels, and digital juries' (2022) Proc. ACM Hum.-Comput. Interact Volume 6 Issue CSCW1 (accessible [here](#)).

⁸² Salty, 'An Investigation into Algorithmic Bias in Content Policing on Instagram' (2019) (accessible [here](#)).

⁸³ See Oversight Board site (accessible [here](#)).

⁸⁴ See Oversight Board news page 'Oversight Board overturns Meta's original decisions in the "Gender identity and nudity" cases' (2023) (accessible [here](#)).

This can, in turn, empower sex workers to choose which sites to associate with. As well as guide platform owners, policymakers and academics to work towards more legitimate processes that lend institutional credibility to platforms.⁸⁵

For purposes of this document, we have tabulated mainstream platforms’ community guidelines below and their approach to sexual content:

Community guidelines	Restrictions on sexual content
Facebook and Facebook Messenger – accessible here	Prohibits photos, videos, and (some) digitally created content that shows sexual intercourse, genitals, close-ups of fully-nude buttocks, and female mamilla. However, photos in the context of breastfeeding, birth giving and after-birth moments, health-related situations (for example, post-mastectomy, breast cancer awareness, or gender confirmation surgery), or an act of protest are allowed. The policy provides that nudity in photos of paintings and sculptures is acceptable.
Instagram – accessible here	Same as above as Instagram operates under the same parent company as Facebook and Facebook Messenger.
WhatsApp – accessible here	WhatsApp’s Commerce Policy does not allow business accounts to position products or services in a “sexually suggestive” manner.
Twitter – accessible here	Twitter does not allow users to post adult content within a live video or in profiles or header images.
Youtube – accessible here	Prohibits explicit content which is meant to be sexually gratifying.
TikTok – accessible here	Prohibits nudity, pornography, or sexually explicit content, as well as Nudity and sexual activity including content that is overtly revealing of breasts, genitals, anus, or buttocks, or behaviours that mimic, imply, or display sex acts.
Snapchat – accessible here	Prohibits the promotion, distribution, or sharing of pornographic content. Further prohibits a commercial activity that relates to pornography or sexual interactions (whether online or offline). Breastfeeding and other depictions of

⁸⁵ Above n 80.

	nudity in non-sexual contexts are generally permitted.
WeChat – accessible here	Prohibits nudity, sexual activity, and sexual solicitation. Further prohibits material deemed as “sexual exploitation of adults” which includes acts or photos involving non-consenting adults, paid sexual services, and other types of pornography (whether its public distribution was consented to or otherwise).
Pinterest – accessible here	Limits or removes the distribution of mature and explicit content including fetish images, vivid sexual descriptions, graphic depictions of sexual activity, and images of nudity where the poses/camera angles/ props suggest pornographic intent. The Guidelines note that Pinterest tries to distinguish between pornography and other mature content. Accordingly, content about sexual health, breastfeeding, mastectomy, art, education, and well-being will be allowed but may be limited in distribution.
Reddit – accessible here	Requires users to properly label content and communities, particularly for content that is graphic, sexually explicit, or offensive.
OnlyFans – accessible here	Does not allow nudity in users’ profile avatars or headers. Provides comprehensive guidelines for nudity in posts and messages.
Patreon – accessible here	Nude content is allowed for both real and fictional subjects. Disallows pornographic material or sexual services on Patreon, which is defined as “real people engaging in sexual acts such as masturbation or sexual intercourse on camera.”
Fansly – accessible here	Disallows the solicitation, promotion, and facilitation of “prostitution” and sex trafficking. Prostitution is not defined in the Terms of Service.

The Films and Publications Amendment Act and Board

Discussions around content moderation in the South African context cannot exclude the role of the Film and Publications Board (FPB) as well as the Films and Publications Amendment Act, which came into effect in March 2022.⁸⁶ The Amendment Act extended the FPB's mandate with respect to regulating online distributors and the classification of online films, games, and publications.⁸⁷

The Act distinguishes between non-commercial online distributors and commercial online distributors. Those falling under the latter are required to submit their content for classification, with specific requirements for content which is regarded as “XX” or “X18”.

Section 18(3)(b) requires content to be classified as “XX” if it contains:

- explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person;
- bestiality, incest, rape, conduct, or an act which is degrading of human beings
- explicit infliction of domestic violence; or
- explicit visual presentations of extreme violence.

Section 18(3)(c) requires content to be classified as “X18” if it contains explicit sexual conduct, unless, judged within context, the film or game is a bona fide documentary or is of scientific, dramatic, or artistic merit.

In terms of the regulations, distributors are enjoined by the Regulations to ensure that their FPB classification and FPB logo are displayed on the platform's landing page, platform catalogue, and point of sale.⁸⁸ There are also specific accreditation requirements for foreign international commercial online distributors to indicate how they will authorise access to their platform by the FPB to enable continued monitoring and compliance and advise on the alignment of the platforms foreign and international rating with that of South Africa.⁸⁹ If an online distributor fails to ensure access and alignment with South African classification, the online platform will be afforded 30 days to comply failing which the license will be suspended.

Research on the impact of the FPB's extended powers on platform sex workers in South Africa is yet to be fully understood. Arguably, media practitioners have a role to play in gathering data on this and, in this way, advancing public understanding of content regulation specifically in the sex trade online. The role of platforms is to ensure there is regulatory compliance to avoid penalties that may inadvertently restrict platform sex workers to continue operating on these sites.

⁸⁶ Films and Publications Board, 'Notification: Films and Publications Amendment Regulations' (2020) (accessible [here](#)).

⁸⁷ Films and Publications Amendment Act 11 of 2019 (accessible [here](#)).

⁸⁸ Regulations for the Films and Publications Amendment Regulations, GN 46842 GG 2436, 2 September 2022 (accessible [here](#)).

⁸⁹ Id section 15.

Online privacy considerations

The New York Times exposé on Pornhub uploading and monetising videos of sexual assault rightfully highlighted concerns about the exploitation of sex workers (and exploited individuals who are consensually part of the sex trade).⁹⁰ A class action against Pornhub's parent company is currently pending and depending on the outcome, this may serve as useful precedent even in a South African context as these issues gain more attention.⁹¹ A petition to shut down the site received over 2 million signatures, yet the platform is still operational.

More recently, the American Supreme Court's decision to overturn *Roe v Wade* reverberated across the globe. During this time, there were heightened discussions around women's safety with respect to their reproductive health decisions and privacy. The threat of digital data being used to criminalise women was front of mind⁹² and while conversations around this have quietened down in mass media, this threat is a daily one for platform sex workers. It, therefore, remains imperative that online platforms enforce comprehensive privacy policies which respect bodily autonomy and do not misuse sex workers' data.

From a South African perspective, there has been little to no reporting in mainstream media on the privacy rights of sex workers. However, the Information Regulator, established in terms of the Protection to Personal Information Act (POPIA),⁹³ issued a summons against the South African Police Service (SAPS) for allegedly leaking the personal information (including their residential addresses) of survivors of sexual assault.⁹⁴ There was some speculation that the survivors were sex workers. In April 2023, an enforcement notice was issued to the SAPS;⁹⁵ directing it to take specific measures including issuing a public apology to the data subjects and to include POPIA training across all SAPS training programmes.⁹⁶ MMA welcomes this development and aligns with the view that, ultimately, sex workers should share content and only be contactable on their terms.

Protecting children online

The primary purpose of this section is to point out that children must, of course, be protected from accessing or participating in inappropriate, harmful content. In doing so, the principles and considerations outlined with respect to reporting on CSE outlined above must be applied with equal rigour in digital spaces.⁹⁷ In November 2022, the Disrupting Harm project published a report on the

⁹⁰ Kristof, 'The children of Pornhub' The New York Times (2020) (accessible [here](#)).

⁹¹ National Center on Sexual Exploitation, 'Statement: Pornhub sued again: Class-action lawsuit filed by Canadian woman is fifth civil suit' (2022) (accessible [here](#)).

⁹² Tso, '4 things sex workers can teach us about digital surveillance' (2022) (accessible [here](#)).

⁹³ Protection of Personal Information Act 4 of 2013 (accessible [here](#)).

⁹⁴ Maromo, 'Information regulator squeezes SAPS to explain leaking of Krugersdrop rape victims' details' IOL (2022) (accessible [here](#)).

⁹⁵ See media statement, 'Information Regulator shares outcomes of complaints investigated and assessments conducted in relation to PAIA and POPIA' (2023) (accessible [here](#)).

⁹⁶ See advisory note by ALT Advisory, 'South Africa: Information Regulator issues decision about police breach of POPIA' (2023) (accessible [here](#)).

⁹⁷ ECPAT, Interpol and UNICEF, 'Disrupting Harm in South Africa: Evidence on Online Child Sexual Exploitation and Abuse' (2022) (accessible [here](#)).

extent of online CSE (OCSE) and abuse. As a point of departure, OSCE can be viewed in several buckets⁹⁸:

- The production, possession, or sharing of child sexual abuse material;
- Live-streaming of child sexual abuse;
- The online grooming of children;
- The sexual extortion of children; or
- Unwanted exposure of a child to sexual content.

The report finds that between 7 and 9 per cent of children between the ages of 12 to 17 years old have experienced OSCE in South Africa.⁹⁹ On the issue of public awareness of OSCE, the report cites a lack of knowledge, a generational gap, and cultural barriers as some of the reasons this topic has not been adequately explored in the South African context. Platforms that depict explicit content, including sexual activities, should implement stringent measures to protect children from OSCE. Through journalism, these platforms can be held to account in instances of non-compliance.

RECOMMENDATIONS FOR ONLINE PLATFORMS

- Direct, periodic engagement with sex workers is necessary to better understand their challenges with online platforms. From a digital rights perspective, engagement with lawyers and experts on data protection, privacy, and human rights may support platforms to align their policies, safety practices, and systems with best practice. Policies, safety practices, and systems should also be periodically reviewed to cater to evolving discussions and understandings of platform-based sex work.
- Whether content moderation is automated or done through human labour (or a combination of both), online platforms should develop and use systems that do not unduly restrict sexual content where such content is consensual and is tied to sex work.
- Online platforms should take swift action (and be seen to take action) against online gender-based violence (OGBV) including the non-consensual distribution of intimate images or video content as well as harassment online. Where sex workers withhold or withdraw consent on particular visuals or content, this must be respected at all times.
- Online platforms must prioritise the protection of children from OCSE in its various manifestations. Where violations or cybercrimes occur, best practice requires platforms to remove the harmful content and report this to law enforcement and regulatory authorities as soon as reasonably possible.
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⁹⁸ Id.

⁹⁹ Above n 98.

- Collaboration with electronic payment systems to ensure that sex workers are remunerated timeously and securely is essential. Hacking//Hustling's¹⁰⁰ work highlights how sex workers are disenfranchised by payment processors (platforms such as PayPal use Terms and Conditions to exclude sex workers) or through companies who cite that the content produced by sex workers on their platforms presents a financial risk.
- Concerted efforts to work together with data privacy regulators to ensure that sex workers' data is processed lawfully and where it is not, it is removed from platforms. Sex workers should be empowered to report concerns around privacy through accessible channels.

¹⁰⁰ Hacking//Hustling is a collective of sex workers who research the intersect between technology and social justice. See Stardust et al, 'What can tech learn from sex workers?' Decoding Stigma (2021) (accessible [here](#)).

GENERAL GUIDELINES FOR MEMBERS OF THE MEDIA

Language matters

By inviting academic experts to define key terms on sex work and differentiate between human trafficking, prostitution, and slavery, journalists will be equipped with the correct terminology to use when reporting on sex workers. In addition to inviting contributions from academics and experts in the field of sex work, journalists should conduct desktop research and consult discussion documents such as this to guide them on how to report on sex work within the South African context.

Inclusion and relying on credible sources

A common thread in our engagement with experts was that reporting on sex work has, to date, been one-dimensional and sensational. They discouraged this reporting trend and further suggested that the inclusion of multiple stakeholders will foster a multi-dimensional approach to understanding sex work and provide readers with various reliable stories through which they can form an informed opinion.

Privacy considerations

When including the voices of sex workers in media reports, it is important that consent is obtained to prevent exposing sex workers from being the target of online and offline harm. Obtaining consent to publish the name, image or any identifiable features of a sex worker is good journalistic practice and should always be exercised before conducting interviews.

Reporting on children

The decision on whether or not to report on children is a balancing exercise between competing interests. Applying the best interests of the child principle and having reasonable foresight into the potential risk that a child may be exposed to because of a particular story are the primary considerations. While child participation can foster inclusion and agency, their rights to equality, dignity, and privacy must prevail.

Unbiased and accurate reporting

Ultimately, by adopting the approaches above, the reporting will be accurate and reflective of the experience of the demographic of sex workers interviewed. While it is important to note that it is impossible to capture the entire experience of sex workers from conducting a handful of interviews, attempts to consult persons with opposing perspectives and acknowledging that the article is limited to the experiences shared by those who were interviewed is good practice and protects the integrity of the reporting.

CONCLUSION

Safeguarding dignity must prevail in all engagements with sex workers, whether they opt to operate online or in person. In the words of Judge Edwin Cameron, the Inspecting Judge of Correctional Services and former Justice of the Constitutional Court, “We are right to be concerned for the safety and dignity of sex workers. Many are impoverished women or queer people, often more vulnerable because of race or cross-border status. Their work is often difficult and sometimes dangerous.”¹⁰¹ Considering the significant role that the media and online platforms play in perpetuating narratives around sex work, they should exercise their roles and responsibilities with the utmost care and consideration.

The starting point would be to ensure that sex workers are consulted and represented in ways that promote diversity, transparency, and accuracy. Online platforms should also prioritise similar principles when engaging with sex workers who use, and to a significant degree, contribute to the success of such platforms. Ultimately, both traditional media and online platforms have a duty to promote information rather than morbidity.

MMA looks forward to engaging with journalists and online platforms in the short- and medium-term to establish better practices that ultimately make sex work safer.

ENDS.

¹⁰¹ Cameron, ‘Sex work: where criminal law has no place’ (2023) GroundUp (accessible [here](#)).

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