HUMAN DIGNITY AND THE RIGHT TO WORK: SEEKING PROTECTION FOR COMMERCIAL SEX WORKERS*

Abstract
Core international human rights instruments guarantee all persons, and without discrimination, the right to dignity and the right to work, among others. Nonetheless, most countries criminalize sex work and stigmatize commercial sex workers (CSWs). This paper uses the doctrinal methodology to explore violations of the right to dignity, and to work of CSWs, using random examples from Africa, Asia, Canada, USA, the Oceania, and Europe. The paper faults the notion of CSW being peculiar to women. It considers a possible typology of CSW, the modus operandi for recruitment of CSWs, inherent public health and allied issues associated therewith, as well as the role of the internet in indoor sex merchandising. It equally joins the debate as to whether CSW is a human right or a violation thereof. The paper significantly underlines the inevitable nexus between CSW and human rights, and concludes that the rights to dignity and work of CSWs in most jurisdictions remain illusory. Lastly, it makes suggestions, including the decriminalization and regulation of CSW, which may bridge inherent social and legal gaps for securing the rights to human dignity and to work, of CSWs.

Keywords: Human dignity, the right to work, Commercial sex workers, Protection

1. Introduction
In most jurisdictions, commercial sex work (CSW) or prostitution is criminalized and stigmatized, and female sex workers (FSWs) constitute a supposedly immoral and particularly marginalized segment of the population. Reliable research confirms that there is currently no African country in which sex work is entirely decriminalized. The research also found that poverty, inequality and commercial sex work (CSW) are inseparably linked, with most ‘sellers’ of sex being female and poor. The right to human dignity is an inherent part of human life and is prescribed to be enjoyed without any manner of discrimination. Elementarily, the right to work is the concept that people have a human right to work, or engage in productive employment, and may not be prevented from doing so. The right to work is fundamental and recognized in several international legal instruments including the International Labour Organization (ILO), which is essential for achieving other human rights and forms an inseparable and inherent part of human dignity. The right protected by the ILO Convention allows the individual and his/her family to earn a living. The right to work is also the first of the specific rights recognized in the International Covenant of Economic, Social and Cultural Rights (ICESCR). Articles 6, 7 and 8 of the ICESCR respectively guarantees the right to earn a living, the right to fair and favorable conditions and the right to form trade unions for all human beings. Relatedly, the UN Convention on the Rights of Persons With Disability (UN CRPD), provide that persons with disabilities (PWDs) should, in any case, enjoy the same labour rights as others. In the context of these instruments, work is to be freely chosen or accepted, in order to foster personal development and recognition within the society. This suffices that the right to engage in Commercial sex work is the human right of any person including PWD. Accordingly, it is a

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2Ibid.
3ICESCR is an international human rights treaty adopted in 1966. It guarantees access to work, and just and favourable working conditions.
4ILO Convention No. 159 on Vocational Rehabilitation and Employment (Disabled Persons), 1983.
gross violation of human rights of CSW for a state or region to criminalize or stigmatize commercial or transactional sex work.  

This paper uses a doctrinal methodology to explore the meaning and intricacies of CSW including the types thereof, the problems and challenges, the modus operandi for recruitment of CSWs, the security challenges as well as the human rights violations inherent in CSW. The paper concludes that CSWs are, like the rest of mankind, entitled to enjoy the right to human dignity and to work, without discrimination of any sort.

2. Legal Framework for Human Dignity and the Right to Work

Dignity is synonymous with intrinsic value, that is, ‘an absolute, priceless, unconditional worth.’ Human dignity therefore means ‘human worth’, and of course, no local or international law place a higher premium on the human dignity of one over the other, or on men’s over women’s. Many local, regional and international human rights instruments guarantee human dignity and the right to work, both, without discrimination, even though Mundlak contends that despite the frequent mention of the right to work in state constitutions and human rights documents, the implementation thereof is weak, almost non-existent, and rarely translated into practice. Article 4 of the African Charter on Human and Peoples’ Rights, 1981, state that ‘Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.’ Prominent UN Documents and human rights instruments, particularly the Universal Declaration of Human Rights (UDHR) and the United Nations Charter guarantee the right to human dignity, equality and non-discrimination. Remarkably, none of these instruments impliedly or expressly place the right to dignity of CSWs or prostitutes, at the mercy of the state, society or media etc. With regards to the right to work, it is provided in a number of international human rights instruments.

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6 This proposition, however, contrasts with the preamble to the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 2 December 1949, wherein the States Parties recalled that prostitution is ‘incompatible with the dignity and worth of the human person’. Consequently, the UN undertook to combat pimping in all its forms and to ensure assistance was provided to prostituted persons. The debate, however, rages on as to whether prostitution is a fundamental right or a violation thereof.


8 For instance, section 34 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) guarantee the right to human dignity thus: ‘every person is entitled to the dignity of his/her person and no one shall be subjected to torture, inhuman or degrading treatment.’ Its section 34(1) (a) guarantees the right to freedom from discrimination on whatever ground.

9 The Vienna Declaration of the UN World Conference on Human Rights, 1993 state that ‘the human rights of women and of the girl-child are an inalienable, integral and indivisible part of human rights.’


11 They include relevant provisions of the Convention Against Torture and other Cruel Inhuman or Degrading Treatment or Punishment 1984, the International Covenant on Economic, Social and Cultural Rights (ICECSR) 1966, the Convention on the Rights of the Child (CRC) 1989, the International Covenant on Civil and Political Rights (ICCPR) 1966, Slavery Convention of 1926 as amended and Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery.

The right to work has three basic components. First is the liberty component, which includes references to the right to work as a liberty or as the freedom of occupation without governmental intrusion. Second, is the freedom to work and the guarantee against coerced work, namely, slavery. Thirdly, and at the heart of the right to work, is the right to have work and the corresponding duty of the State or of employers to provide work to individuals. This third component is unarguably the most controversial aspect of the right to work, and the bane of its enjoyment. For instance, in Africa's most populous country, Nigeria, the right to work is a mere negative right and unenforceable as it is not listed as a constitutionally guaranteed Fundamental Rights, but as part of the non-justiciable Fundamental Objectives and Directive Principles of State Policy. Accordingly, no obligation is placed on the State or private employers to provide work or employment to persons who desire to work. With specific respect to the right to work of CSWs, and as earlier stated, the debate rages on between the human rights liberals and the conservatives, as to whether prostitution is to be appropriately recognized as a fundamental right or as a violation thereof.

3. Definition of Commercial Sex Work

There is no categorical definition of ‘Commercial Sex work’ (CSW). Elementarily, it describes the services of a person (especially women) who offer sex for money. As such, commercial sex work may equally be described as ‘Transactional Sex’, ‘sex trade’ or ‘sex merchandizing’. Some scholars argue that commercial sex work is derogatorily referred to by the old clichés: whore or Prostitution, while the worker herself is also derogatorily described as a ‘prostitute’. There is no practical distinction between prostitution and commercial sex work, hence, the prostitution issue is firmly on the human rights agenda, not only represented by a lobby arguing that it is an abrogation of fundamental human rights but represented too by the counter-claim that the right to prostitute is a fundamental human right. However, this paper concedes that in line with current human rights advocacy and realities, the use of derogatory clichés such as ‘whore’ or ‘prostitute’ particularly demean the rights to life and dignity of the sex worker (and their right to work), hence, the term ‘commercial sex work’ or ‘commercial sex worker’ is preferred as they recognize the human rights to life and dignity of the sex workers, as well as their right to engage in a trade of their own choosing without let or hindrance. However, some scholars have posited instead that the use of the term ‘sex work’ in place of ‘prostitution’ is ‘more than mere political correctness,’ and that ‘this shift in language had the important effect of moving global understandings of sex work toward a labour framework.’


Chapter IV of the country’s 1999 Constitution (as amended).

Chapter II thereof, wherein section 17(3) states interalia, thus: ‘The State shall direct its policy towards ensuring that-(a) all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment; (b) conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life; (c) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused; and (e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.’


Subsequent parts of this paper, however, uses the term ‘prostitution’ independently or interchangeably with CSW to simply clarify certain contexts and not to derogate or demean CSW, FSWs or CSWs.

Traditionally, prostitution is believed to be synonymous with women, hence ‘a prostitute’ has been defined as ‘someone, usually a woman, who has sex with people for money’. Prostitution or sex work is equally considered an alternative form of work for women, and which is also believed to offer some women a good enough standard of income for shorter working hours as well as some degree of autonomy and independence for those working for themselves. Although women’s involvement in prostitution is taken for granted and has been explained in terms of poverty and/or vulnerability to predatory men this does not eliminate the active involvement of men in the sex industry in Africa and beyond. Suffice to say that in most cases, men populate the clientele of female sex workers (FSW). In some other cases, the men themselves are the actual Commercial sex workers, rendering sexual services and relationships to women and other men (gay affairs) in exchange for cash, drugs, gifts, privileges or opportunities. It is reported, for instance, that in India, the non-castrated transgender also have the option of being the ‘insertive’ sexual partners for other males.

In recent times, it is possible for both male sex workers (MSW) and female sex workers (FSW) to solicit and transact with their male and/or female clients online through the use of internet. In Nigeria and most parts of the world, the internet is known to be a discreet and convenient means for ‘sugar mummies’ who solicit erotic and sexual relations with young boys (‘bad boys’) and girls (‘slay queens’) especially undergraduates), whom they ‘spoil’ with cash, designer clothes, jewelries and expensive electronic gadgets in exchange for ‘straight’ or lesbian sexual pleasures, as the case may be. One cross-sectional questionnaire survey conducted in Bangui (Central African Republic) in 2015 describes a Commercial sex worker more elaborately as a sexually active woman who has more than two sexual partners, other than her regular partner, and receives money or gifts from them in return for her sexual relationships with them. The shortfall of the report, however, is that it defines CSW, albeit erroneously, in relation to Female Sex workers only thereby insulating male commercial sex workers, rendering sexual services and relationships to women and other men (gay affairs) in exchange for cash, drugs, gifts, privileges or opportunities.

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29 Transgender people are men or women who have a gender identity or gender expression that differs from, and usually opposite of their sex assigned at birth. Some transgender people who desire medical assistance to transition from one sex to another identify as transsexual. The term covers the many ways that people’s gender identity can be different from their natural sex assigned at birth. They are sometimes referred to as (trans men and trans women), that is, people who are not exclusively masculine or feminine. Some transgender people reject the traditional understanding of gender as divided between just ‘male’ and ‘female’, so they identify just as transgender, non-binary, bi-gender, genderqueer, gender-fluid, or something else. See Planned Parenthood, Transgender’https://www.plannedparenthood.org/learn/gender-identity/transgender (2/3/2020).
workers who are equally prevalent and active players in CSW globally.\textsuperscript{30} Sex-for-money exchanges also take place outside the vicinity of commercial sex work. For instance, in Soweto and Hamman kraal area of South Africa, the concept of \textit{ukuphanda} (a Zulu verb) is used to describe the sex-for-money exchanges that take place outside of the conventional commercial sex work.\textsuperscript{31}

### 4. Typology of Commercial Sex Work

There is no typical classification of CSW, be it for MSWs or FSWs. Information from random literature review on CSW, especially FSW, across parts of Africa, Europe, USA, the Oceania and Asia reveal that the sex trade generally occurs indoor, outdoor or online, despite broad criminalization of the trade in those areas. They also provide reasonable insight into what may constitute the typology of CSW. Most of the typologies derive from the socio-behavioural characteristics, forms or places where the sex trade thrives. For instance, one study on CSW in the Bangui area of Central African Republic classified FSWs into six different categories: Professionals (consisting of roamers) who travel around the city to hotels and nightclubs seeking wealthy clients; FSWs working in poor neighbourhoods; Non-professionals (divided into four categories): street and market vendors, students, housewives and unskilled civil servants.\textsuperscript{32}Research findings from Moscow, Russia show that sex work in Moscow does not have clear boundaries, and that while some women engage in sex work on a full-time basis, a larger number apparently perform sex work on a part-time basis, intermittently, in addition to other employment.\textsuperscript{33}It stratified sex work, based on the charge for sexual services and varying by location. This includes hotel sex workers (US$50 to US$200 per client); brothel, massage parlor, and sauna sex workers (US$26 to US$150 per client); street sex workers (US$50 to US$100 per client); truck stop sex workers (US$4 to US$6 per client); and railway station sex workers (crust of bread to US$6 per client).\textsuperscript{34}

A research on HIV transmission through heterosexual sex in India, classified FSWs based on their work locations and identified three types of FSWs, namely, street-based, home-based, and brothel-based.\textsuperscript{35} Other reports identified MSWs as a type of CSW in India\textsuperscript{36} and Australia.\textsuperscript{37} In their own research, Cunningham and Shah identified only two types of CSWs: Indoor prostitution and street prostitution. It argued that indoor prostitution typically involves less exploitation, less risk of violence, more control over working conditions, more job satisfaction, and higher self-esteem while street prostitution has higher rates of STIs, rape and sexual assault.\textsuperscript{38}These findings confirm, indeed, that there is no typical classification of CSW, whether male or female.

#### Modus for Recruitment into Commercial Sex Work

Generally, some people volunteer themselves into commercial sex work, others are sweet-tongued into the trade by ‘relatives and friends’, and yet some others are compelled or coerced into it as ‘sex slaves’ and as a
precondition for their safety, upkeep, freedom or comfort. CSW or prostitution may, therefore, be either ‘voluntary’ or ‘forced’, and it occurs locally and across international borders. In the first instance, some young women consider their feminism and sexuality as ‘the easy way up’ or out of the socioeconomic uncertainties of life, and are delighted to use what they have (their feminine endowment) to get what they want. These ‘self-recruit’ CSWs are commonplace in tertiary institutions and workplaces while others operate from the comfort of their own homes. They are ever willing to meet with any ‘client’ or ‘uncle’ anywhere, as long as money will exchange hands. Some of them see the sex trade as the easiest or most convenient way to meet up with the social demands of fashion, top-class socialization, upbeat life style etc.

The second instance is initiated when young men and women resident abroad, and engaged in commercial sex work, return home to Africa on vacation, or for ceremonies or festivities. They flaunt exotic cars and extravagant lifestyles, to the envy or delight of their friends and peers. They tell all manner of good stories about the maximum socio-economic benefits, comfort and leisure derivable from ‘hustling’ and CSW overseas. It gets to a point where these home peers get so carried away and would then approach the returnee ‘away guy’ to assisted them ‘travel’ (relocate abroad). At this stage, they are willing to pay any amount of money or enter a bond in lieu of such payments, as long as their passage is guaranteed. Sometimes too, young African women are invited overseas (usually USA, Europe or Asia) by friends, relatives or acquaintances who are already into CSW, and have been encouraged by their pimps to send back glowing reports of their lives abroad. While some of these women arrive knowing that the job they have been promised will involve sex work, others never get to realize it, until so late, that their ‘relative’ or ‘friend’ is actually recruiting them into CSW on behalf of a ‘madam’, a pimp or a ‘chairman’. Most of these young women often arrive Europe or Asia with little or no resources and they naturally become dependent on the ‘friend’ or ‘relative’ for food and shelter. In most cases, their greatest asset is their international passport or travel documents which the acquaintance compels them to surrender as a collateral in exchange for the food and basic necessities provided for them. In the end, these young women are compelled or intimidated into engaging in commercial sex work as the only viable alternative for earning ‘quick’ money to repay the costs of the ‘support’ they have been enjoying and to regain their travel documents and freedom. Reports reveal that in recent times, the trafficking of women and children for sexual exploitation has become a major concern for governments, nongovernmental agencies (NGOs) and the media in most countries including the USA. The contention that is therefore true that ‘every year, hundreds of thousands of women and children are abducted, deceived, seduced, or sold into forced prostitution, coerced to service hundreds if not thousands of men before being discarded. Instructively though, men also indulge in CSW, albeit focus literature on MSWs is terse.

5. Characteristic Problems and Consequences of Commercial Sex Work

Sex work is generally associated with fear, violence, criminalization, stigmatization, reduced civil liberties, violation of right to life and human dignity, as well as the risk of disease and, for some, death. Padian view Prostitutes as a major reservoir of drug use/abuse and a variety of sexually transmitted diseases and

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44 M. O’Neill (n. 22).
infections. In Nigeria and parts of Africa, as well as in faraway Russia and China, researchers have established an undeniable public health hazard between commercial sex work, drug use, and sexually transmitted infections (STI) including HIV/AIDS. There is also a paradoxical, albeit unofficial relationship between government security agencies and commercial sex workers in Africa and beyond. One research reported that oftentimes, the security personnel and patrolmen carry out raids on sex trade locations and may arrest the sex workers but at the same time it releases them without charge or trial after receiving a bribe or illicit gratifications from them, their pimps, ‘madam’ or ‘chairmen’. It also found that in more organized cases, each of the sex workers in brothels, hotels or popular street locations contribute a certain daily, weekly or monthly of money known as ‘security fee’ which the pimp, ‘madam’ or ‘chairman’ pays to the security agencies and patrolmen in exchange for ‘protection’ from harassment or arrest of a sex worker and raid of location of sex work. It is also unofficially reported that in extreme cases, commercial sex workers who wish to evade arrest, or those arrested but have no money to bribe their way out, or those who would rather pay ‘in kind’ usually provide ‘complementary’ personal services of sexual gratifications to the security personnel as the price for their freedom. This report from Russia is certainly a mirror of what obtains in Africa and beyond, even though previous research findings show that women working at the lower levels of prostitution (streetwalking) face the most violence and the most social control and abuse by the police. There are also common cases of theft and drug abuse, rape and violence, robbery, murder and brutality, kidnapping, car snatching and allied criminalities incidental to CSW.

In spite of the foregoing low points for CSW, authoritative reports show that the merchandizing of sex in the USA is a ‘silent’ high income earner for government. The report found that although prostitution is illegal everywhere in the USA (except Nevada), its prohibition, whether partial or total, has ‘singularly failed to stamp out the sex trade’ and that ‘underestimated’ ‘old figures put its value at $14 billion annually nationwide’. The

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50 Aral et al (n. 48).
51 Ibid.
52 J. Miller (1993). ‘Your life is on the line every night you’re on the streets’: Victimization and the resistance among street prostitutes. Humanity & Society, 17(4), 422-446.
report also found that even in Britain, where prostitution is legal but pimping and brothels are not, more recent calculations suggest that including it would boost GDP figures by at least £5.3 billion ($8.9 billion). 58

6. Commercial Sex Work and Human Rights Abuse
Most governments in the world, including the United States of America, prohibit sex work,59 and possibly on the basis of either moral concerns or public health, decency and safety factors.60 As such, the current negative social attitude to sex work in Africa and most of the world, especially the reference to CSWs as ‘prostitutes’, obviously threaten or diminish the latitude of human rights to dignity, inclusion, work etc. enjoyed by CSWs. According to Lizzie Smith,

Referring to female sex workers as ‘prostitutes’ in the media is not new, but it is a sobering reminder of how pervasive negative understandings of sex work and sex workers are. These understandings originate from various ‘expert’ fields of knowledge including psychology, medicine, sexology, religious doctrine and various feminist perspectives, through which sex workers are positioned as dirty, diseased, sinful, deviant and victims.61

The dehumanization and stigma attached to CSW as well as the flagrant media/social portrayal of CSWs as ‘prostitutes’, ‘dirty’, ‘cheap’ or rape/violence-deserving elements generally underline the broad abuse of the human dignity of CSWs,62 irrespective of whether they work outdoor or indoor.63 This confirms the need to view CSW from the lens of human rights and ensure broad protection of the workers’ rights.

No doubt, the dehumanizing abuse and humiliation suffered by both indoor and outdoor sex workers represent an obvious form of sexploitation that cannot be redressed by mere change in nomenclature. This is in sync with the notorious fact that a basic concept of humanity and indispensable principle for ending violence against women generally, including FSWs, is that sexual abuse is an unacceptable violation of human rights, and that consent before sex must be freely and voluntarily given. Accordingly, the fact that a perpetrator or ‘buyer of sex’ has some spare cash and the ‘victim’ person he is abusing needs money does not eliminate the legal requirement of free consent for sex. It can therefore be truly asserted that a society which acts in law and language as if men who pay to sexually access women are simply consumers, legitimately availing workers of their services, is one in deep denial of the exploitation and inequality inherent in CSW.64 Despite the high risk associated with sex work, the physical and sexual violence towards prostitutes has seldom been the focus of public or academic interest.65 The experiences of prostitutes have equally been missing from studies of violence and rape, as has the problem of violence from studies of prostitution.66

59Cunningham & Shah (n. 38).
62Monto&Hotaling (n. 54).
63Church et al (n. 55).
There is also the on-going debate in Europe and elsewhere on the competing theorizations that prostitution, on the one hand, is simply sex and on the other that prostitution is exploitation/inequality. This debate is critical and certainly places the prostitution issue firmly on the human rights agenda, because while one group claims that prostitution or CSW is a gross violation of fundamental human rights, the other group promotes the counter-claim that the right to prostitute is a fundamental human right.67

Regrettably though, in a world dominated by men, violence has long been assumed to be an intrinsic trait of female prostitution.68 It is even more regrettable and ironic that some prostitutes actually see men's abuse as an indispensable part of male-female relationship,69 and believe that against all odds, women need men, no matter how abusive, to protect them from the threat of other men.70 Nonetheless, some FSWs have developed their own protective strategies to defend themselves against abusive or violent male clients. Aside matching violence with violence, another protective measure, though psychological, is the use of intuition, developed through the experience of dealing with so many men over time, to 'weigh up' or 'assess' each client. By so doing, the FSW may easily decide to ‘refuse’ or ‘reject’ a prospective client, or better still, fashion out the best way of ‘handling customers’. In more frequent cases, the FSWs, especially the street-working class, try to ‘command respect’ of male clients by assuming an ‘assertive’ or ‘no-nonsense’ stance to ensure their compliance with agreed bargain. This stance is commonly effective in fending off verbal abuse, as well as physical attacks on the person, choice of work or integrity of the sex worker. The safest reported measure, though, is for CSWs especially the FSW to aim to build up a ‘known set’ or ‘regular group’ of clients who can be handled with minimal stress and less effort, and yet provide them with assured income.71 Media reports reveal, however, that in most cases, even highly visible violence against prostitutes goes unpunished because ‘victims who live on society’s margins are unlikely to seek justice, or to get it.’72 Nonetheless, CSWs, like the rest of society, deserve a better deal in the protection of human dignity and work rights, especially in Africa.

7. Commercial Sex Work and the Role of Internet
The internet has become a fundamental aspect of nearly every of man’s endeavor, whether positive or negative.73 As earlier stated, the internet is a veritable and convenient tool for negotiating, buying or selling sex worldwide.74 Its importance in commercial sex trade, especially indoor prostitution, is lucidly captioned in a 2014 article published in The Economist, which contended, inter alia, that the internet is making the buying and selling of sex easier and safer online, and that governments should stop trying to ban it.75 The article further stated, and rightly so, that:

| Sex arranged online and sold from an apartment or hotel room is less bothersome for third parties than are brothels or red-light districts. Above all, the web will do more to make prostitution safer than any law has ever done. Pimps are less likely to be abusive if prostitutes |

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67 Edwards (n. 17).
72 The Economist (n. 58).
74 Cunningham & Shah (n. 59).
75 The Economist (n. 72).
have an alternative route to market. Specialist sites will enable buyers and sellers to assess risks more accurately. Apps and sites are springing up that will let them confirm each other’s identities and swap verified results from sexual-health tests. Schemes such as Britain’s Ugly Mugs allow prostitutes to circulate online details of clients to avoid.\textsuperscript{76}

The said article also described the internet as ‘the invisible hand’ which facilitates safe commercial sex by cutting off the participation of intermediaries such as pimps, ‘madams’ or ‘chairmen’, and equally disappoint ‘moralisers’ who condemn sex merchandizing. The article stated, and quite reasonably too, that:

Moralisers will lament the shift online because it will cause the sex trade to grow strongly. Buyers and sellers will find it easier to meet and make deals. New suppliers will enter a trade that is becoming safer and less tawdry. New customers will find their way to prostitutes, since they can more easily find exactly the services they desire and confirm their quality. Pimps and madams should shudder, too. The internet will undermine their market-making power.\textsuperscript{77}

Without more, the above propositions offer a reasonable summary of the role of the internet in the merchandizing of sex in Africa and beyond.

8. Conclusion and Recommendations

The debate rages on globally: whether CSW or prostitution is a fundamental human right or whether it amounts to ‘sexploitation’ and an abuse of the dignity and right to work of CSWs especially the FSWs. This debate includes arguments on whether or not to positively decriminalize and liberalize the sex trade.

One group argues that sex work is a fundamental human right and that being paid to perform sex acts should be recognized as a kind of legitimate service work, hence, the rationale for proposing the legalization of prostitution and the guarantee of dignity and work rights for CSWs. The other group contends that ‘voluntary consent’ is a legal precondition for lawful sex and that the instance where a sex trade which offers men the chance to buy sexual access to women who do not ordinarily want to have sex with them, is nothing short of criminal sexploitation, and ought to be broadly outlawed. In all, the quest to balance this raging debate logically places CSW on the human rights agenda, and underscores the need to guarantee the rights to dignity and work of CSWs, without bias or discrimination arising from the negative perception of the sex trade.

The need to protect the human rights to work and dignity of CSWs cannot be over-stretched. Government must institutionalize law and policy mechanism for ensuring equality in dignity and work rights for all persons including CSWs. The proposed policy initiative must strive to reduce the likelihood of client violence against CSWs, even though the potential for a quick or dramatic change for the better will be clearly limited by the current high level stigmatization and perceived illegalities surrounding prostitution, especially in the case of street-working prostitutes.\textsuperscript{78}Trade unions and pressure groups which promote the cause of CSW must be encouraged, regulated and protected as this will also ensure the provision of medical aid and support services for its members. CSW should thus be recognized as a legitimate form of labour, which will also be subject taxation. After all, the most popular bottom-line of the sex industry is that it offers men the chance to buy sexual access to women who, ordinarily, do not want to have sex with them – otherwise they wouldn’t have to pay.\textsuperscript{79} Regulating CSW will equally make it manifest that women are not subordinate sex objects and that rape is a bad thing. A school of thought holds makes a distinction between ‘outdoor prostitution’ and ‘indoor prostitution’. It posits that while outdoor prostitution poses a public health and other risks, indoor prostitution is safe and should be

\textsuperscript{76}Ibid. 
\textsuperscript{77}Ibid. 
\textsuperscript{79}Kat Banyard, The Guardian, (n. 19).
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decriminalized. It also expressed a contrary view with respect to government regulation of the sex trade, especially the indoor sex trade. It argued, for instance, that since the internet is making the buying and selling of sex easier and safer, governments should not meddle in the fair trade, especially if it is undertaken privately (indoor) by consenting adults.80

Nonetheless, it is further recommended that a decisive approach be pursued by government for redressing the stigma and negative media and societal perception which portray CSWs as unruly outlaws, deviants, ‘cheap’ and mere ‘prostitutes’ undeserving of any respect or honour.81 This recommendation is trite because studies have shown that ‘the term ‘prostitute’ does not simply mean a person who sells her or his sexual labour (although rarely used to describe men in sex work), but brings with it layers of ‘knowledge’ about her worth, drug status, childhood, integrity, personal hygiene and sexual health.’82 This stigma associated with the tag of ‘prostitute’ in contemporary African societies is far-reaching and arguably demeaning for both the CSWs and the commercial sex trade. More regrettably, it portrays the CSWs, especially the FSWs as persons indulging in a vulnerable trade where indignity, violence or even death are expected, accepted and even deserving. It equally supports the mindless societal notion expressed by some people that once a victim of violence is described as a ‘prostitute’, the intended blameworthiness of the perpetrator of such violence is, prima facie, reduced or excused because the victim is ordinarily believed to be ‘a bad girl’. In retrospect, such negative mindset feeds into violence-supporting attitudes about all other women. This is without prejudice to a contrary argument that engaging with prostitution first and foremost as a labour issue, using the term ‘sex work’ does not adequately and appropriately excuse the inherent sexual abuse, humiliation and indignity which CSWs are subjected to in strip clubs, on porn sets and in brothels.83 Furthermore, the rebranding of ‘prostitution’ as ‘sex work’ is merely a matter of political correctness which focuses on FSWs without much reference to MSWs.84

Recommendations have been made elsewhere for particularly curbing the infection and spread of HIV/AIDS among the buyers and sellers of commercial sex in red-light districts.85 Nonetheless, broad medical, clinical, pharmaceutical, emergency and allied public health support services and facilities for diagnosing and responding to the health-needs of both the providers and consumers of the sex commodity (especially the ‘street-working class), should be provided freely or at affordable costs as a way of guaranteeing the dignity and right to work of CSWs. Relatedly, periodic testing, counselling and hygiene services are hereby recommended for CSWs. It should also be borne in mind that a secure environment where safe water and hygiene facilities are readily available and affordable to everyone including FSWs is a sine qua non for guaranteeing the human dignity and the right to work of CSWs, among others. The paper concedes, however, that prostitution may be morally repugnant for some persons, and legalizing the indoor sex trade, as herein recommended, may impose unquantifiable moral costs on such persons. Although some researchers have argued that decriminalization of CSW may increase human trafficking,86 yet the clandestine nature of the sex trade makes it extremely difficult to obtain reliable data on the number of persons so far trafficked.87

80The Economist (n. 77); Cunningham & Shah (n. 74).
82Ibid.
84Ibid.
85Cunningham & Shah (n. 80).