

YOUR RIGHTS WHEN ARRESTED



- You may not be arrested unless the police suspect that a crime was committed.
- If a woman is arrested, she may only be searched by another woman, in a dignified manner.
- The police may not remove your clothes during a search.
- The police must tell you the reason for the arrest.
- The police must either charge you with an offence or release you.
- The police cannot force you to make any statement which may be used against you in court.
- The police cannot use more force than needed during an arrest.
- All property found on you must be placed in safe custody at the police station.
- The police must allow you to call someone to bring your medicines.

YOUR RIGHTS IN COURT



Magistrates' courts and traditional courts must protect your constitutional rights to:

- A fair and speedy hearing within a reasonable time.
- Be presumed to be innocent until proven to be guilty.
- Be informed as soon as possible of the nature of the charge.
- Not give evidence in court.
- Be provided with a court interpreter.
- Appeal your case to a higher court.

The police must treat all persons according to the law. IT IS A DISCIPLINARY OFFENCE IF A POLICE OFFICER:

- *Makes an unnecessary arrest.*
- *Is involved in corrupt practices, including not giving you a receipt if you paid a fine.*
- *Uses violence or intimidates any person.*
- *Is bad-mannered to a member of the public.*
- *Tortures you or treats you in a cruel or degrading way.*

If you feel the police treated you badly, you have the right to open a criminal case, or to lodge a complaint against the police officer. The complaint must first be raised with the National Commissioner, who must immediately deal with it. If the complaint is not resolved, it can be taken to the Police Service Commission.

Know your rights SEX WORK AND THE LAW IN ESWATINI



Sex work is not a crime and sex workers are not criminals. Police cannot arrest you just because you are a sex worker.

YOU HAVE A RIGHT TO:

- Personal liberty
- Dignity
- Freedom from torture, inhuman or degrading treatment
- Equality
- Fair hearing
- Protection from arbitrary search
- Freedom of expression
- Freedom of association
- Privacy
- Freedom of movement



THIS MEANS THAT:

- The police cannot arrest you simply for being a sex worker or being associated with sex workers.
- The police cannot treat you in an inhuman or degrading way.
- The police cannot search your home without a valid reason.
- The police cannot arrest you for being in or moving through a certain area.
- The police cannot arrest you without a reason.
- The police cannot treat you in a disrespectful or cruel manner.

An outdated piece of law, the Crimes Act of 1889 is often used against sex workers. This law does not criminalise sex workers, but criminalises the act of loitering in public for the purpose of prostitution (s49). This offence violates sex workers' rights because it places the responsibility of a person accused of loitering to explain what they are doing. This is against the constitutional right to be presumed innocent. The offence is also problematic because it allows traditional courts to deal with the offence, which often means that the accused person's right to a fair hearing is not respected and the person is denied a lawyer. The offence may not be used as an excuse for police to abuse sex workers' rights.

The Sexual Offences and Domestic Violence Act (SODV Act) creates some offences relating to sex work. **These offences do not apply to sex workers themselves.** The aim of these offences is to prevent sex workers from being exploited:

- **Commercial sexual exploitation:** It is an offence to try to benefit from forcing someone to have sex with another person.
- **Procuring prostitution:** It is an offence to induce someone to become a sex worker.
- **Benefitting from prostitution:** It is an offence to get money from someone else's sex work.
- **Living from the earnings of prostitution:** It is an offence to earn a living by controlling the work of a sex worker.
- **Keeping a brothel:** It is an offence to own, control or manage a brothel.



YOUR RIGHTS WHEN ACCESSING HEALTH SERVICES

- Health care workers may not discriminate against you for being a sex worker or treat you badly.
- Contraceptives must be accessible to sex workers.



YOUR RIGHTS IF A VICTIM OF VIOLENCE

- Nobody may force you to engage in a sexual act.
- Any victim of physical or sexual violence, has the right to complain to the police.
- The police and courts must treat all victims of sexual violence equally and fairly.
- If you are a victim of violence, the police must tell you where to get counselling.
- The police cannot force you to withdraw the charge.
- The court must protect your safety, dignity and privacy.