



**Sub: Input for SR VAWG’s report on violence against women and “prostitution”
Submission to the Special Rapporteur Violence against Women and Girls on behalf of the National
Network of Sex Workers**

We consent to the publication of this submission on the UN website.

Date of Submission – 31 January 2024

The National Network of Sex Workers (NNSW) is a pan-India network of over 150,000 female, trans and male sex workers.¹ In the context of the call for inputs by the Special Rapporteur VAWG, a national consultation of sex workers was held on 17 January 2024 in Bengaluru, Karnataka, India.

Methodology

An orientation session explaining the purpose, background, objectives, and mechanism of the Special Rapporteur (hereafter referred to as “SR”), including the process of preparation of the report was conducted by domain expert². The SR has sought responses to a set of 15 questions from stake holders. For the national consultation, the 15 questions were translated into six Indian languages, Hindi, Marathi, Tamil, Telugu, Kannada, and Malayalam. The request for the profile of “women and girls affected by prostitution” in the call for inputs elicited the following:

Preliminary objection

There must be clear separation of women and girls, who should not be clubbed with the category of adult women.

The terms 'prostitution' and 'prostituted women' are not used in the Indian context. The Supreme Court of India (SCI) has issued a Handbook on Combating Gender Stereotypes offers guidance on avoiding harmful gender stereotypes and suggests that the word prostitute be replaced with 'sex worker'.³

The language used in the call for inputs is a step back and in contravention of the Principle of Non-Retrogression which posits forward movement towards the further fructifying of agency and human rights.⁴

We take this opportunity to underscore the importance of avoiding any terminology that conflates human trafficking, sexual exploitation, and sex work. Such conflation is inaccurate: trafficking of persons into forced or coerced labour (including sexual exploitation) cannot be equated with consensual sex work. Such a conflation also contributes to human rights violations against sex workers, who end up further

¹ NNSW consists of 75 CBOs/ State Networks/ State Federations/ Collectives and 8 NGO allies across Ten States in India, Andhra Pradesh 11, Delhi 02, Gujrat 02, Jharkhand 02, Karnataka 15, Kerala 10, Maharashtra 14, Tamil Nadu 10, Telangana 08, Uttar Pradesh 01

² Advocate Aarthi Pai

³ https://main.sci.gov.in/pdf/LU/04092023_070741.pdf

⁴ [Principle of Non - retrogression.pdf](#)



policed and abused despite being characterized as “victims” of trafficking. This was noted by the UN Special Rapporteur on violence against women during her 2013 mission to India.

The Special Rapporteur included specific recommendations to review the country’s statute on “immoral traffic” that de facto criminalizes sex work and to “ensure that measures to address trafficking in persons do not overshadow the need for effective measures to protect the human rights of sex workers.”⁵

1. Provide examples of hidden forms of prostitution, and explain to what extent they are recognized and dealt with as such?

The primary bane of sex work – defined as the provision of sexual services for monetary benefit or kind – and colloquially known as “dhanda” (business), is that it has been criminalized, often pushing those who practice it to work clandestinely.

The inability to share their nature of work is the biggest challenge. Invisible sex workers also include women, and transgender persons working from home and arranging clients via mobile phones, independently or through an agent. Services are provided in rooms rented for the purpose or in commercial establishments. Also, a large percentage of female sex workers, are housewives, and their families do not know the nature of their work.

2. Profile of women in sex work

A conservative estimate of female sex workers in India as per the UNGASS NACO estimates in 2010 is 1.2 million.⁶

Sex workers are regularly raided, “rescued” and confined in shelter homes usually under abysmal conditions. For these reasons, sex workers are not willing to come forward and acknowledge their identity and access services provided by government. Therefore, accurate data is difficult to compile.

3. Describe the profile of clients.

Most sex workers work through mobile phones or peer networks or on the streets. They work as independent workers or are attached to a system of third parties or client procurers. As there are several undocumented migrants, they move frequently for better earning opportunities or to escape identification by family. They are forced to hide their identity due to the stigma attached to their work.

Following are broad categories of sex workers:

a. Female sex workers who provide sexual services to men:

- (i) Female brothel-based sex workers who migrate from various places to work in brothel spaces in sex work for a contract and then return home. Many of these workers stay for longer periods of time.
- (ii) Street-, lodge-, and hotel-based sex workers.

⁵ *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo – Addendum: Mission to India* (2013), UN Doc. A/HRC/26/38/Add.1 (2014), para 20, online: <http://bit.ly/2hjt0QK>.

⁶ UNGASS Country Progress Report 2010. Reporting : 21% Period: 2008- 2009. National AIDS Control Organisation, Ministry of Health and Family Welfare, Government of India, New Delhi. 31 March 2010



b. Transgender women who provide sexual services to men: Mostly street-based, working on the highways.

4. Forms of violence (physical, psychological, sexual, economic, administrative, or other)?

The use of terminology like prostitution and prostitute women itself is violence, undermines our self-respect and dignity, impacts liberty, takes away our agency and posits us as helpless victims and can lead to more violence against sex workers.

Criminalization of sex work also increases both the risk of sex workers acquiring HIV and their vulnerability to violence perpetrated by clients, police and other third parties. The criminalization of any aspect of sex work, including the criminalization of the clients of sex workers, has also been repeatedly shown to negatively affect sex workers' safety and health, including reducing condom access and use, and increasing the rates of violence.⁷

5. Who is responsible for the perpetration of violence against women in “prostitution”?

Violence against sex-workers in India is linked to the perception of sex workers as criminals and not citizens. This has led to systemic and large-scale violation of human rights such as the right to life, dignity, equality, equal protection and due processes under the law. For sex workers, the State is an instrument of violence, rather than a protector of rights. People in positions of authority routinely demand sexual favours from sex workers for speedy redress of grievance or accessing entitlements. Police abuse sex workers, illegally detain, sexually assault and torture them in custody.

Additionally, criminal and punitive laws targeting sex work then provide a justification for the violence and rights violations. Sex workers can also face violence from support staff, managers or clients in establishments where sex work takes place. Criminal elements, clients and third parties use the threat of criminal sanctions to exploit sex workers.

Further, the stigma attached to sex work exposes them to violence in personal spaces from family members, including intimate partners.

6. How is the issue of consent dealt with? Is it possible to speak about meaningful consent for prostituted women and girls?

The terms “consent of girls” is irrelevant in case of minors. The phrase ‘consent of girls’ must be removed from the nomenclature and the call for inputs.

There must be space to accept that adult women in sex work have the agency to give consent. That we have agency and exercise choice and enter sex work and/or continue to work as sex workers out of our

⁷ https://www.unaids.org/sites/default/files/media_asset/05-hiv-human-rights-factsheet-sex-work_en.pdf



volition. We believe that consent is possible only when we are free from violence and in safe working spaces.

7. Lessons learned about what works and what does not

We earn and take care of our families like women in any other profession. It is discriminatory, arbitrary, and antithetical to the right to equality to criminalize “living on the earnings of sex workers”.

The lives and rights of life, liberty and equality of sex workers are directly impacted by the policies and laws formulated by the State.

As sex workers are first responders, they are in fact important agents for combating trafficking, especially that of minors.

8. Are frontline organizations and survivors' organisations sufficiently included in policymaking at the national and international level?

No evidence of this is available.

9. What measures are in place to assist and support women and girls who wish to leave prostitution?

We believe in organizing ourselves to support our sisterhood. We are committed to protecting the dignity and rights of adult women who are in sex work out of their own volition, and we are equally committed to fighting trafficking. We have cooperated with the local police to apprehend traffickers, protect and prevent minors as well as adult women from being brought into this trade without their consent.

We have taken responsibility for our health and that of the wider community in terms of working on HIV/AIDS prevention and control as peer educators. We have also taken responsibility to ensure education and opportunities for our children so they are able to choose their own futures.

10. What recommendations do you have to prevent and end violence associated with the prostitution for women and girls?

We respectfully urge the SR to:

- (a) Desist from using the terms “prostitute” and “prostitute women”.
- (b) Avoid clubbing minors with the category of “sex workers”, which denotes adult individuals in sex work.
- (c) Stop the conflation of trafficking and voluntary entry into sex work.

We recommend the following:

- (i) Immediate removal of the provision making “living on the earnings of sex workers” from the Immoral Traffic Prevention Act.
- (ii) Full de-criminalization of sex work and sex workers.



- (iii) Ending the conflation of sex work and trafficking.
- (iv) Making sex workers integral to the drafting of policies and laws as their rights are directly impacted and
- (v) Do not criminalize clients/customers.

Additional Submissions

We urge the Special Rapporteur to take note of the following in formulating the report on violence against women and girls to the Human Rights Council:

1. That the decriminalization of sex work is a vital step to secure the dignity, rights, access to health services and safety of sex workers⁸.
2. That criminalization of sex work exacerbates the violence against sex workers.
3. That sex workers are workers and are entitled to enjoy all the labour rights of workers.
4. That sex workers are neither criminals nor victims and using this frame is detrimental to the rights, life, liberty and dignity of sex workers.
5. That criminalization of sex work undermines this vital role played by sex workers collective in the prevention of trafficking of minors.
6. That there is conclusive evidence with inputs from 10,000 stake holders from 160 countries to establish the positive impact of the removal of punitive and discriminatory laws against sex workers.⁹

Appeal

In view of the aforesaid responses, facts and circumstances as well as the submissions made, NSSW urges the Special Rapporteur to incorporate the unequivocal recommendations made herein, into the “Report of the Special Rapporteur on Violence against women and girls to the Human Rights Council on prostitution and violence against women and girls.”

⁸ The 2020, UNAIDS Global Aids Update once again reiterated, “The decriminalization of sex work is a key component for securing rights, health and safety at work for sex workers, and for achieving their self-determination, amplifying opportunities for outreach and peer education, increasing transparency, and reducing stigma and discrimination. Decriminalization also reduces the risk of HIV infection, with modelling studies suggesting that decriminalizing sex work could avert 33–46% of HIV.

⁹ The Global AIDS Strategy 2021–2026, End Inequalities, End AIDS over 10 years.
[UNAIDS Background Paper V3.pdf](#)