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**SUBMISSION TO THE CEDAW COMMITTEE ON THE GENERAL RECOMMENDATION ON TRAFFICKING IN WOMEN AND GIRLS IN THE CONTEXT OF GLOBAL MIGRATION**

This response is being jointly submitted by CREA, India and All India Network of Sex Workers (AINSW), India; and 90 sex worker led community based organisations. Over the last three years, regular consultations, at district, state and national levels have been held with sex worker groups in India to discuss multiple issues concerning sex worker rights. This submission is a response to the Committee’s upcoming General Recommendation (GR) on Trafficking in Women and Girls in the context of Global Migration. At the onset, we would like to state that no GR on Trafficking would be comprehensive without addressing the rights of adult consensual sex workers. Sex workers emphasize that their rights should be respected in relation to all areas of life, including in relation to their sexuality, reproduction, employment, access to services and information, freedom of movement and assembly. Their right to participation in legal, policy and programmatic processes in relation to sex work should be guaranteed at international and national levels[[1]](#footnote-1).

**About All India Network of Sex Workers (AINSW)**

AINSW is a federation of community based organisations of sex workers who are engaged in promoting and protecting rights of sex workers in addition to their engagement in HIV intervention. It believes that sex work is work and demand worker's right for sex workers. AINSW envisions a world wherein sex work is recognized as work, a world that is just and has no laws that criminalize sex work where adult women, men and transgender persons in sex work have the right to earn and live through the exchange of sexual services.

**About CREA**

CREA, is a New Delhi based international women’s rights organisations based in the global South, led by Southern feminists, working at the grassroots, national, regional and international levels.

CREA works at the intersection of sexuality, gender, violence against women, and human rights and together with its partners from a diverse range of human rights movements and networks, CREA implements its programmes in India, South Asia, Central Asia, the Middle East, and East Africa, and advocates for positive social change through national and International forums. CREA has studied, taught and written extensively on sexuality and rights and in this work has frequently included sex work issues. All this work links theory and practice around sexuality.

**Introduction**

Sex worker groups in India recognise that trafficking is a criminal offence and that no person should be forced into a profession they have not willingly chosen. However, the conflation of sex work and trafficking severely undermines the human rights of sex workers while failing to secure rights of people who are trafficked; by misdirecting resources into policing sex work, rather than identifying people who are coerced and providing them appropriate support[[2]](#footnote-2). It exacerbates the lack of legal remedies to redress violence and erodes the efforts of sex workers fighting for legal and social recognition of their rights to dignity and livelihood.[[3]](#footnote-3)

Sex worker groups at the consultations recognized that trafficking is illegal, and that no one should be forced into sex work. However, the rights and entitlements of consenting adults who enter into sex work on their own volition should be recognised and not confused with the rights and needs of people who are forced into sex work and/or are underage.

When sex work is conflated with trafficking, governments superimpose their idea of rehabilitation and the results are disastrous. The consultations revealed instances of sex workers being picked up against their will and put into rehabilitation homes for periods ranging from 3-6 months and outing of their choice of profession to their family members as a part of the “rehabilitation” process.

**Laws or policies directly or indirectly criminalizing sex work needs to be expunged and an enabling legal environment for sex workers needs to be guaranteed.** [[4]](#footnote-4)

During the consultations, the narrative that cut across the regions was that due to criminalisation of sex work, sex workers’s rights are often violated, including their rights to movement, assembly, health and safety. Due to the societal stigma attached to criminalisation, they, their children and families often face stigma, discrimination and violence.

Sex workers clearly expressed, that to address violations of sex workers rights and violations within sex work, it needs to be decriminalized, including to keeping or renting of brothels[[5]](#footnote-5), those living on the earnings of sex workers, pimps and madams, customers of sex workers, and soliciting. They emphasized that criminalisation of sex work only leads to further stigmatization and becomes an unwieldy weapon in the hand of law enforcement officials to arbitrarily harass and abuse them and extort money from sex workers. This in turn exposes sex workers to greater physical, mental and sexual harm. Hence, a comprehensive structural response is needed in order to eliminate violence against sex workers, which must mandatorily include sensitisation and capacity building of all relevant stakeholders.

In a consultation conducted on 19th January 2019, sex workers recounted stories of police harassment across states in India such as Mysore (Karnataka), Ajmer (Rajasthan) and Patna (Bihar). In Chandigarh (Punjab) and Patna (Bihar), cases of sex workers being blackmailed for sex by the police themselves emerged, as reported by Sushma\* and Meena\* respectively. In Surat (Gujarat), ‘fake’ police in cohorts with the local media tried to exhort money from Puja\*, a woman running a massage parlour, and in Ahmedabad’s Karanj district (Gujarat) a sex worker was brutalised so badly by the police her clothes started oozing with blood. In Solapur (Maharashtra), a red-light area of 16 houses was demolished and 46 sex workers lost their homes.

Story of Ishrat\*: Ishrat left home when she was 17 and went looking for work because her family was unable to pay for their food and rent. She first approached a sex worker collective. However, to become a peer educator with the collective, a precondition was that the person had to be a sex worker. Ishrat worked as a sex worker for two months but her own moral dilemma did not let her continue much longer. She then found work as a construction labourer. Her supervisor would constantly ask for sexual favours in exchange for her daily wages. It was then that Ishrat realised that unlike in sex work, where everything was as per her terms, there was far more violence, sexual and otherwise, in other forms of labour and voluntarily chose to go back to sex work. Being a sex worker has helped feed her family and has also allowed her to build a community for herself which includes her clientele.

Story of Varsha More\*: Varsha works as a peer educator and sex worker in the Hingoli District of Maharashtra. There have been multiple occasions where for no reason the police has come and conducted raids in the areas where sex workers live. These women have been taken to the police station and beaten up. They are threatened and asked to disclose their clientele. On multiple occasions Varsha has had to go to the police station and be humiliated police before her colleagues have been let go.

**Sex work is work and needs to be recognized as a form of labour**[[6]](#footnote-6)

Sex workers unequivocally have emphasized that due recognition needs to be given to their right to work and sex work needs to be recognised as work. It should be considered thatalmost a third of the families of sex workers in India survive solely on their income thereby coming under the woman-headed household category. Hence their work should be considered under the labour rights framework.

Sex workers need to be considered as informal sector workers, and their labour rights, including ensuring minimum wages, right to highest standard of health and social benefits guaranteed.During the consultations, there was demand that, at a minimum, this should include setting up of welfare funds, access to government retirement benefits on par with other informal sector workers.

**Recommendation**

A ‘rescue and rehabilitation’ lens to address trafficking violates multiple human rights principles. Primarily it completely negates agency of the person who has been ‘trafficked’. While there is no disagreement on the fact that trafficking is a heinous offence and needs to be addressed urgently and comprehensively, it however needs to be looked at with all its complications and intersections around socio-economic and political conditions and bodily integrity, agency and rights. In view of the often unsuccessful rehabilitation processes, attention must be paid to the comprehensive mechanisms that sex worker groups in India have themselves adopted to ensure that persons who are either underage and/or have been brought into the fold of sex work against their will, have a dignified way out.

Durbar Mahila Samanwaya Committee’s[[7]](#footnote-7) (DMSC) Self Regulatory Board (SRB)[[8]](#footnote-8) model is an example of a hugely successful community led intervention to stop trafficking. DMSC has a Board (comprising 60% sex workers, 40% civil society) which monitors when new sex workers come in simply to check cases of trafficking. If the girl is a minor, and forcibly brought she is send back to her home, or else offered space in a rehabilitation home which is also run and monitored by Durbar. If she is an adult and wants to be in the profession, she is educated about all the health and safety aspects before she starts working as a sex worker. In fact, the Supreme Court of India has called the SRB a model to emulate.

1. <http://www.nswp.org/sites/nswp.org/files/UN%20Women%20Consultation%2C%20NSWP%20-%202016.pdf>. ; UN Women. Note On Sex Work, Sexual Exploitation And Trafficking. 2013 [↑](#footnote-ref-1)
2. UN Women. Note On Sex Work, Sexual Exploitation And Trafficking. 2013; UNAIDS Guidance Note On Hiv And Sex Work, 2012; UNFPA Guidance Note On Hiv/Aids, Gender And Sex Work – complete reference; NSWP Consensus Statement reaffirms NSWP ’s global advocacy platform for sex work, human rights and the law. 2013. [↑](#footnote-ref-2)
3. See also: Understanding the De- Criminalisation Demand: Aarthi Pai and Meena Saraswathi Seshu; The feminist and the sex worker: Lessons from the Indian Experience by Srilatha Batliwala [↑](#footnote-ref-3)
4. See also: ‘Ain’t I a Woman’. A Global Dialogue between the Sex Worker’s Rights movement and the Stop Violence Against Women Movement held from 12-14 March in Bangkok. CREA, India [↑](#footnote-ref-4)
5. Includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place. [↑](#footnote-ref-5)
6. UN Women. Note on Sex Work, Sexual Exploitation and Trafficking. 2013; UNAIDS Guidance Note On HIV And Sex Work, 2012; [↑](#footnote-ref-6)
7. https://durbar.org/ [↑](#footnote-ref-7)
8. The SRB model is a multi stakeholder model, comprising of members across Department of Health, Labour and Social Welfare, medical practioners, lawyers, social workers, sex workers and others. This mechanism helps to idenitify whether the person is there by choice or coercion. For minors and non-consenting adults, their wishes are taken into consideration to rehabilitate them accordingly; http://www.sexworkeurope.org/sites/default/files/resource-pdfs/dmsc\_innovative\_approaches\_trafficking.pdf - Durbar Mahila Samanwaya Committee’s SRB; http://durbar.org/html/anti\_trafficking.aspx [↑](#footnote-ref-8)