



**Submission to the Special Rapporteur on violence against women and girls  
to the Human Rights Council on prostitution and violence against women and girls**

Asijiki Coalition for the Decriminalisation of Sex Work

29 September 2023

1. Introduction

This submission is presented on behalf of the Asijiki Coalition, a South African network of organisations and individuals working on issues related to the human rights of sex workers and broadly and specifically advocating for the full decriminalisation of adult sex work in South Africa. We noted the call for submissions sent out last year on this topic and hereby submit our thoughts for consideration. While we do reflect on the questions asked by the Special Rapporteur below, we also feel that it is key to reflect on the deeply problematic nature of some of these questions and indeed of the call for submissions as a whole.

2. The Asijiki Coalition

The Asijiki Coalition for the decriminalisation of sex work is a network of over 130 organisations in South Africa who share a commitment to the full decriminalisation of sex work in the country. Our members come from all sectors of civil society, Public Health and HIV, Social interest law and the feminist/women's rights and many more. As well as organisations there are many individual members who are mostly sex workers and their allies. The coalition is one of the biggest single-issue coalitions in South Africa and reflects

civil societies' overwhelming support for decrim. As well as decriminalisation the coalition engages with a broader set of work around sex worker rights, violence and stigma. The coalition is connected to the Southern African Sex Worker Alliance (SASWA), the African Sex Work Alliance (ASWA) and the NSWP at regional, continental and international levels respectively.

### 3. A Note on Terminology

We note with some concern the use of the word Prostitution throughout the call for submissions, this despite the fact that sex workers and their advocates and allies have repeatedly demanded that this term not be used. It is stigmatising, pejorative and its repeated use in the face of numerous requests to stop is in itself a form of violence. We recognise that some sex workers have chosen to reclaim the term prostitute and use it as a form of resistance and fully respect their right to do so. This is not however the majority view and certainly not where we are at in South Africa. For this reason, while acknowledging the title of this submission is determined by your use of the word prostitute, we will not use this word again, instead we will use the term sex worker. The term sex worker describes an adult women or man who willingly engages in sexual activities in return for payment. It does not mean a person who has been trafficked nor does it mean a child victim of sexual violence.

The conflation of these terms is not accidental, it is a deliberate attempt to delegitimise sex workers calls for rights and legal protections by implying that sex work, trafficking and sexual exploitation are simply different names for the same thing. It plays on peoples entirely legitimate disgust at trafficking and sexual exploitation to the detriment of sex workers. It a convergence that it reserved only for sex workers, no similar connection is made between people trafficked for agricultural labour and farm workers or people trafficked for construction work and construction workers.

### 4. The Call for Submissions

The call for submissions from the Special Rapporteur was deeply problematic to us in numerous ways, one as highlighted above was the extremely concerning use of words that sex workers have repeatedly indicated are considered deeply offensive. Some others are:

4.1. The call for submissions particularly from “organizations that facilitate the recovery of women and girls who have been prostituted; those that are advocating for the rights of women and girls who have been prostituted; as well as well as from survivors” is an immediate indicator that this process has a predetermined outcome. On a broad level it would seem odd to indicate that you would specifically like submissions from any one group of people as this implies that you only want submissions that agree with a certain ideological starting point. If, however the views of one group of people were to be particularly sought surely it should be the views of sex workers.

Many of us have an interest in sex work, some of us have particularly expertise in certain areas, former sex workers have a perspective very worth listening to but ultimately the people most profoundly impacted by violence targeting sex workers are sex workers so why would any other view be valued more than theirs. We cannot imagine any other context in which this would be considered acceptable, would a consultation into the rights of lesbian women foreground the views of anyone other than lesbian women, would a consultation on reproductive rights specifically request inputs from anti-abortion organisations? While we would hope that, even with the obvious bias of the Special Rapporteur, our submissions (sex workers and sex worker rights orgs) would receive equal consideration to others, the pre-stated fact that our submissions are valued less makes this seem somewhat unlikely.

4.2. The very problematic use of international law. The foundational aspects of the call for submissions focus greatly on the use of various treaties to justify the clearly anti-sex work leaning of the call and yet almost all of these treaties relate to trafficking and/or sexual exploitation. The deliberate decision to conflate these with

sex work then allows for a litany of international law that has nothing to do with consensual adult sex work to be implied to be of relevance to it. This is obviously deliberate, but it does a disservice to sex workers, to people who have been trafficked and to victims of sexual exploitation. It also fails to acknowledge that the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others has been widely dismissed by women's rights activists for its lack of human rights focus and treatment of women as nonagency beings while the 2000 protocol clearly does define trafficking and forced prostitution as something other than consensual sex work and links them rather to other forms of trafficking.

4.3. The clear bias of the call for submissions leaves little hope for a fair engagement with all submissions. Not only does the call use problematic and at times downright offensive language all the way through but even the framing of the explanation for the call and the of the questions indicated a pre-determined world view on this issue. This inspires little confidence of a fair process of reading and evaluating all submissions. Statements like "international law has recognized that prostitution is incompatible with the dignity and the worth of the human person" serve to immediately suggest that the many sex workers who are likely to submit submissions to this call can be dismissed on the grounds that they lack dignity and worth.

Perhaps most bizarrely the call request that reference should be made to the divergent views held by advocates on this issue. While this in itself is not odd it then goes on to define their divergent views as those who support full criminalisation versus those who support partial decriminalisation (in which sex workers are not criminalised but everyone else is), it entirely fails to mention the view that favours the full decriminalisation of sex work, despite the fact that this is the view held by quite literally every organisation, network or movement of sex workers in the world.

All the factors above cast great concern over whether there is much point in sex workers, their organisations or allies participating in this consultation process as its

outcome appears pre-determined and to be one that will not be in the interests of sex workers or enhance or support their safety and protection from violence in any way whatsoever. We are however participating as a mark of respect to those institutions within the UN (UN Aids/UN Women/UNFPA etc...) who have repeatedly shown their support for sex workers and sex worker rights. We hope that their solidarity will shine through.

## 5. Sex Workers and Violence

We do not romanticise the sex industry or turn a blind eye to the many forms of violence that sex workers face. This violence can come from clients, community members, the police and many other sources. All sex workers face these various forms of violence but women are particularly vulnerable, not least because we live in a country (and indeed a world) in which violence against women is already entirely out of control. The following points should be noted:

- 5.1. Sex work is not inherently violent, but discrimination and stigma against sex workers generate violence and limit sex workers' access to justice. Globally, sex workers face a 45% to 75% chance of experiencing violence over their lifetime. Sex workers from structurally excluded groups, such as LGBT individuals, migrants, people who use drugs, and the homeless, experience even higher levels of violence. In South Africa where levels of violence against women are already at pandemic levels these stats are probably closer to 90%.
- 5.2. Work is often characterised by exploitation and violence; this is particularly true of the kinds of work available to working class women in the global South. This is often mitigated however by labour legislation that secures basic rights for workers and provides mechanisms to claim them. Criminalisation blocks sex workers from access to these protections, sex workers cannot form or join a trade union, they

cannot use structures such as labour courts to demand safer working conditions, they cannot enforce employment contracts. There is a contradiction from the proponents of full or partial criminalisation in highlighting the exploitative nature of sex work while also supporting a legal model that blocks sex workers from all the things that might make their work less exploitative.

5.3. In countries where laws and policies conflate sex work and human trafficking, and in countries that criminalize sex work, sex workers and victims of sexual exploitation are subjected to violent raids by the police, who carry out physical and sexual assaults, impose prolonged detention, and subject women and girls to extortion. In South Africa it is very common for women to be held by the police until they either pay fines or provide sexual services in return for their release. Migrant sex workers from other parts of the continent are particularly vulnerable as in many cases they lack legal papers to be in the country or even if they have such papers the police can take them leaving them extremely vulnerable to the threat of deportation and therefore at the mercy of the police.

5.4. Violence is not just individual but also structural. Issues like denial of health services or fear of discrimination that causes sex workers to not seek medical care can literally kill. Stigma and discrimination can impact the ability of the children of sex workers to access education.

## 6. Recommendations

There are many ways in which the Special Rapporteur can support sex workers in their struggles for rights and safety. Joining the global movement for decriminalisation and using the platform of her position within the UN to amplify the voices of sex worker activists would be the most powerful.