**Input to the UN Special Rapporteur on Violence against Women and Girls for her upcoming report on “Prostitution and Violence against Women and Girls”**

Durbar Mahila Samanwaya Committee (DMSC), India

1. ***About DMSC***

The Durbar Mahila Samanwaya Committee (DMSC), a sex-worker led organization functions as India’s largest community based forum of female, male and transgender sex workers and their children, from both brothels and mobile populations. DMSC has a membership of about 45,000 sex workers across the state of West Bengal in India. DMSC demands decriminalization of adult sex work in all its aspects, social recognition of sex work as a service sector occupation and establishment of sex workers’ right to self-determination. DMSC also seeks to abolish or reform all laws that restrict the human rights of sex workers and limit their enfranchisement as full citizens.

1. ***Terminology used in the call for input***
2. *The use of the term “prostitute”*

The term sex worker is preferable to prostitute. Sex work is a profession. In ancient times, it was known as *vesyavriti.* In Sanskrit, *vriti* means work. Any work is a profession.

DMSC rejects the use of the word “prostitute” as it has narrow and discriminatory connotations about women’s sexuality. In the perception of society, all women outside the relation of conjugality are seen as threats to the institution of family. It is said that enticed by prostitutes, men stay away from the socially desired norms and in the process, destroy the family. All institutions from religion to formal education reiterate and perpetuate this fear.

In India, the word “prostitute” is used for a person, in particular a woman, who is said to be “selling her body.” In contrast, DMSC says that Sex workers are not ‘selling their bodies’ – they are workers using their bodies. This is why the term sex worker is more accurate than “prostitute.”

When someone carries out work for example as a journalist or an office assistant, are they not using their bodies? Isn’t their hands, feet or vocal cord involved in performing the work. When a labourer works in a factory, he or she obviously performs their task through using their limbs as well as their brains. Does this mean they are selling one’s body or limbs? Sex-workers also use their body including their sex organs in providing sexual services to clients. The use of the brain and sensory organs are equally important in carrying out sex work. When we see someone driving a car, we can observe how he uses his hands and feet, but a driver has to make various decisions while driving. S/He has to make a judgement call using their brains and their eyes. Similarly, a sex-worker has to cultivate minds and various other sensory organs in order to awaken the sexual pleasure of clients. It’s no doubt a difficult and complex task. For this very reason, it is essential to obtain mastery over the art of sex. So, to call it as ‘selling of one’s body’ is utterly misconceived. Capitalists as well as socialists know that neither the labourer nor labour-power is sold in the labour market – it is the labour-time that is sold. This holds true for every worker, including sex-workers.

The job of the sex-worker is to entertain people, so why shouldn’t it be counted as “work”? It stuns many who raise their eyebrows in disagreement. However, sex-workers go on to explain it further. “I don’t kill or hurt anybody, I don’t force, I don’t take bribe, I don’t steal – so why I am depicted as ‘bad’ or ‘fallen’ women? How do you define our work?” Even if one accepts their logic, one doesn’t want to acknowledge it as it challenges our established values and perceptions around morality.

1. *The conflation of sex work and trafficking for sexual exploitation*

Sex work and trafficking in sex work are two different issues and should not be conflated. It is also recommended that consensual sex between two adults should not be dragged under the framework of trafficking and anti-trafficking program through violating rights of individuals. In India sex work and trafficking are conflated mainly because of the influence of some of the antitrafﬁcking organizations who frequently cast a wide net, conﬂating all sex work with trafﬁcking.

The moral perspective of sex work tends to create two classes of women, i.e., victims of trafficking (“good women”) and sex workers (“bad women”). [This distinction could be traced back to the US law of MANN Act, 1910 that conflated migration for women for better employment opportunities including for prostitution with ‘white slavery’, which then informed all subsequent international treaties on trafficking]. This approach intends to disrepute women in sex work vis-à-vis her rights to self-determination.

1. ***The legal framework in India***

In India, sex work is not criminalized *per se* but the Immoral Trafficking Prevention Act has had an effect on the profession as a whole:

* Section 3.1 forbids the house owners giving their house on rent to sex workers, failing which a fine of Rs. 2.5 lakhs and 7 years jail would be imposed on the house owner. This profession is to be carried out inside a room and all sex workers are not in a position to purchase their own house and have to take rented house. Even the house owners deny providing with any receipts.
* Section 4 is also more controversial. It says that any individual above the age of 18 years who is dependent on the income of a sex worker will be criminalized. At this age the children would have passed class X or maximum class XII, so will it be taken for granted that the children of sex workers should not get the scope of studying after class XII.
* Section 7 says that if there is temple, mosque, church, school or college within 200 meters of a red light zone, then both the sex worker and the customer will be penalized. Thus, by building any of these above, people are trying to evict the red light areas.
* Section 8 is also not in favour of the sex workers. Generally, the sex workers solicit in crowded places. The section gives power to the police to arrest sex workers who might even stand in these places without soliciting and may take bribe from them or resort to violence. The sex workers to give bribe often have to lend money from the petty money lenders or malkins at a very high interest. The sex workers then resort to unsafe sex to pay back this loan.
* Section 18 states that if a brothel grows up within 200 meters of a residential area could be evicted by the police on the order of the Executive Magistrate. The promoters are taking help of this section and on bribing the police and political leaders are trying to take out orders from the Magistrate.
* Section 20 states that if the local people complain about the problems created due to the presence of a brothel, the Executive Magistrate can ask the sex workers to leave that spot.
1. ***Responses to the questions in the call for input***
2. *The forms of violence sex workers are subjected to*

Seeking to ‘rescue’ trafﬁcking ‘victims’ in sex work areas, ‘raid and rescue’ operations fail to distinguish between voluntary adult workers and those who are trafﬁcked or underage. The effects of such actions have been damaging – communities disrupted, social and health services interrupted and sex workers taken into custody, abused or driven underground, increasing rather than reducing their vulnerability.

1. *The obstacles faced by organisations and frontline service providers in their mission to support survivors of trafficking and violence*

In 1997, DMSC decided to address the problems of underaged and coerced women in sex work settings. Community members who had themselves been trafﬁcked at some point in time proposed policies and strategies that were discussed among DMSC members. A multi-stage response based on the concept of Self Regulatory Boards (SRBs) and community vigilance was developed to regulate entry into sex work, identify abuses and respond comprehensively where coercion or underaged sex work was suspected. Each SRB is composed of 10 members, including 6 from the sex worker community, a local ward counsellor and representatives from health, social welfare and labour sectors. The concept of SRB was developed based on the understanding that sex workers themselves can take charge of their living and working conditions in partnership with other civil society members. As a professional group they aspire to live and work in digniﬁed and violence-free environments, where sex workers exercise autonomy over their lives and manage systems of their own to prevent entry of minors and trafﬁcked women into the sex trade. To this end, DMSC systematically documents each aspect and stage of SRB work. Careful documentation provides a record of all identiﬁed entrants into the area and the decisions, management and follow-up of all cases. These records are used to monitor and improve outcomes, from identiﬁcation and case management to career building, reintegration and follow-up.

As the sex workers, who are members of the Self Regulatory Board stay within the red light district, it is possible for them to do surveillance on entry and exit of women in sex work to ensure early defection of trafficked cases. They can do better Counseling of the survivor and with the help of the technical support can do record keeping. They also help in the rehabilitation and reintegration with family members and also do regular follow up of cases after integration to family or ‘Home’ to prevent re-trafficking.

The effects of police raids on places of sex work have been damaging as the sex workers for their earning goes underground or change their nature of solicitation which becomes difficult for the civil society organizations, providing support to the sex workers, to reach out to them, thus denying the sex workers of the various services they are being provided.

1. *Sex work and the issue of consent*

‘Sex work’ can never be considered as rape because it is sex of two consenting adults where the sex workers solicit the clients and after deciding upon the rate, do they have sex. It is never an act of rape, which is defined as a crime, generally committed by a man or a group of men, of forcing another person to have sexual intercourse with the offender or offenders against their will. As already mentioned here the two individuals consent on having sex associated with monetary transactions, as decided upon.

This attitude is harmful to the sex workers as because if clients are caught by the police on the pre-text of raping a sex worker, the visits of clients would diminish and this would lead to the sex workers to income money through unsafe sex practices. This will jeopardize the HIV / AIDS Intervention Program among this core group.

1. *The lack of inclusion of sex workers in policymaking*

A few of the members of DMSC have been inducted in some policy making bodies of the local level e.g., some Community Advisory Board of the State AIDS Control Society or are also members of some state level bodies of informal labour sector, but in the National or International level not much is known about.

1. ***Recommendations***

We would recommend setting up of the Self Regulatory Boards in each and every red light district followed by strengthening them. Secondly raising public relationship with the local police and policy makers would help to change their mind set towards this particular marginalized community.