

## **Mandate of the Special Rapporteur on contemporary forms of slavery**

### **Response to the call for input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on the nexus between the global phenomenon of prostitution and violence against women and girls**

While I fully respect the independence of each Special Procedures mandate holder, I would like to offer a few comments for the consideration of the Special Rapporteur on violence against women and girls, Ms. Reem Alsalem, based on my own experience with the issue at stake.

As pointed out by the Working Group on discrimination against women and girls, “sex workers worldwide suffer widespread discrimination and violations of their human rights. While the sex workers rights movement has been growing, human rights jurisprudence on violations of sex workers’ rights is limited. Barriers to sex workers’ access to human rights accountability mechanisms and highly polarised views on the relationship between sex work, feminism and human rights have restricted any real progress in protecting the human rights of sex workers.”<sup>1</sup> As I have committed to a survivor-oriented approach, I consider it important to take the diverse voices, identities and experiences of people involved in sex work into consideration. While some may certainly feel exploited and victimised, for others it may be a choice to engage in sex work and any stigmatisation should be avoided. For the same reason, not all forms of prostitution can be considered a form of gender-based violence.

With regard to relevant legal instruments, I would personally privilege the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) over the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Other. Under the Protocol, not all sex work (consensual or otherwise) is considered a form of trafficking.

In case it may be of interest, I also wish to share some information gathered during country visits with you, as I systematically try to reach out to sex workers and organisations representing them. At the end of my country visit undertaken to Canada from 23 August to 6 September 2023, I noted in my End of Mission statement, that I was “seriously concerned that anti-trafficking rhetoric and implementation of anti-trafficking efforts have had a negative impact on the human rights of sex workers who are not trafficked or exploited in Canada due to a conflation between sex trafficking and sex work that stakeholders report is sometimes intentional.”<sup>2</sup> During the visit, I met with a large number of academic experts, civil society organisations and sex workers themselves in various parts of Canada, all of whom raised serious concerns over targeted surveillance

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<sup>1</sup> <https://www.ohchr.org/en/special-procedures/wg-women-and-girls/eliminating-discrimination-against-sex-workers-and-securing-their-human-rights>.

<sup>2</sup> <https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/statements/eom-statement-canada-sr-slavery-2023-09-06.pdf>.

and harassment by law enforcement, denial of essential services including as a result of public funding shifting towards anti-trafficking organizations that oppose sex work, and a lack of investigation and response in instances where sex workers have been subject to violence or exploitation.

Furthermore, the situation of sex workers in Canada was made worse by the Protection of Communities and Exploited Persons Act which has criminalised the purchase of sexual services. This has put sex workers in a more vulnerable position to abuse and exploitation as it has made it difficult to check the identities of their clients more effectively, as opposed to a situation in which both parties would have borne equal risk. While the law is often referred to as having “decriminalized” the sale of one’s own sexual services as intended by the Supreme Court of Canada in *Canada vs Bedford*, this remains illegal, though a non-prosecutable offense. This means sex workers can still face other forms of discrimination on the basis of being engaged in an illegal activity, including when attempting to access housing, financial services and social services including healthcare. Additionally, sex workers operate within a criminalized environment that makes reporting any violence and abuse challenging as they could risk exposing their clients or co-workers. The situation is compounded for migrant sex workers without permanent residency, as there are discriminatory provisions in immigration law that specifically forbid migrants from engaging in sex work and they face deportation if caught doing so.

In the report about my country visit to Costa Rica undertaken in November 2022 (A/HRC/54/30/Add.1), I also met with sex workers, including from the LGBTIQ community. In that context, several interlocutors referred to sex work as a means of survival, for example after the loss of another job. Many sex workers were under strict control of pimps and criminals, some of whom are highly organized, which greatly enhances the level of exploitation, abuse and exposure to violence. I was also informed that LGBTIQ+ persons are often excluded from the formal labour market due to discrimination, and they therefore faced an increased risk of being pushed into sex work.

In Sri Lanka, which I visited in November 2021, I was made aware that sex workers of all gender identities and sexual orientations are subjected to discrimination and stigma, particularly transgender persons. Many of them come from rural areas to work in Colombo and the free trade zones. I also received disturbing reports of women in other sectors resorting to sex work to support their families, particularly during the COVID-19 pandemic. They face an increased risk of exploitation and abuse, including at the hands of law enforcement officials. Most work long or irregular hours, without access to economic and social support from the Government, as sex work is illegal in the country. Sex workers in Sri Lanka are disproportionately targeted by law enforcement authorities, while middlemen, including tuk-tuk drivers and hotel workers, who collect high fees from sex workers, are not effectively identified, prosecuted and punished. As I noted in my report A/HRC/51/26/Add.1 on the country visit undertaken to Sri Lanka, I strongly believe that sex workers should be protected from exploitation, empowered and seen as rights holders instead of being discriminated against and stigmatized.<sup>3</sup>

I remain available in case you wish to discuss further.

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<sup>3</sup> Paras 50-51.