

# Violations faced by Sex Workers in India

## Joint Stakeholders Submission

9/20/2016

though the actual figures are well over that<sup>1</sup>. Organisations of sex workers, United Nations agencies and Commissions have articulated sex work as a contractual arrangement where sexual services are negotiated between consenting adults.<sup>2</sup>

### Special Rapporteur on Violence Against Women (SR-VAW) on Conflation of Sex Work and Trafficking

2. In 2014, the SR-VAW following a visit to India observed, “*Sex workers in India are exposed to a range of abuse including physical attacks and harassment by clients, family members, the community and state authorities; they are forcibly detained and rehabilitated and consistently lack legal protection; and they face challenges in gaining access to essential health services, including for treatment of HIV/AIDS and sexually transmitted diseases.*”<sup>3</sup>
3. The Rapporteur also called for a review of anti-trafficking legislations: “*The Special Rapporteur recommends that the Government review the Immoral Traffic (Prevention) Act, 1956 that de facto criminalizes sex work and ensure that measures to address trafficking in persons do not overshadow the need for effective measures to protect the human rights of sex workers.*”

### National and International Recognition for Sex Work and Rights of Sex Workers

4. UN Resolutions, international agencies and Commissions have stressed on a rights-based response to sex work and the need to protect rights not just by **decriminalising sex work, but by eliminating the unjust application of non-criminal laws and regulations** against sex workers.
  - a) The resolution of the UN Economic and Social Commission for Asia Pacific calls on member states to address legal barriers<sup>4</sup> to HIV responses including reviews<sup>5</sup> of national laws, policies with a view to eliminating discrimination against vulnerable populations.
  - b) The Independent Commission on AIDS in Asia;<sup>6</sup> UN Special Rapporteur on Right to Health;<sup>7</sup> Global Commission on HIV and the Law;<sup>8</sup> and UNDP Asia Pacific<sup>9</sup> have recommended the decriminalisation of sex work involving consenting adults.

## Background

1. People in sex work face discrimination and violence owing to their criminalised status and the continued conflation of sex work with trafficking. According to official estimates, there are over 12,00,000 sex workers in India,

- c) National Human Rights institutions have been called upon to hold governments accountable for the protection of sex workers from discrimination, harassment, abuse and violence perpetrated by police or other government officers.<sup>10</sup>
  - d) UN organisations, international agencies and Commissions call for recognition of trafficking in persons for sexual exploitation and sex work as two different concepts to be understood and legislated upon accordingly.<sup>11 12 13</sup>
  - e) The International Labour Organisation (ILO) and the UNDP have emphasised the need for sex workers to have access to legally enforceable rights to occupational health and safety and also the right to participate in the process of developing workplace health and safety standards.<sup>14 15</sup>
5. Sex work organisations have also called for a review of laws that criminalise third parties who support sex workers to work within a safe environment.<sup>16</sup> Sex workers have been recognised as an invaluable resource in the law and policy reform process with a view to developing non-judgmental and rights-based laws, policies and programmes.<sup>17</sup>
6. Elaborating the scope of Article 6 of CEDAW, General Recommendation 19 calls on States to recognise that sex workers' unlawful status makes them vulnerable to violence and hence they need equal protection of laws against rape and other forms of violence.<sup>18</sup> States were asked to report on the measures to protect women in sex work from violence and the effectiveness of these measures.<sup>19</sup> The CEDAW Committee has recommended the need for measures to prevent "discrimination against sex workers and ensure that legislation on their right to safe working conditions is guaranteed".<sup>20</sup>
7. The Supreme Court of India has observed that sex workers are entitled to the right to life and must be accorded the protection guaranteed to every citizen. It instructed the State to provide recommendations on the "**rehabilitation of sex workers who wish to leave sex work of their own volition and to provide conducive conditions for sex workers who wish to continue working as sex workers**" in accordance with Article 21 of the Constitution.<sup>21</sup> In 2015, a Supreme Court panel recommended that several provisions of Immoral Traffic Prevention Act, (ITPA) be read down in the context of consenting adult sex workers and their families.<sup>22</sup> The panel also recommended that court orders closing brothels and evicting "offenders" could be appealed against in higher courts.

## The legal framework

8. Sex work in India is conflated with trafficking for sexual exploitation. The principal legislation dealing with trafficking is the Immoral Traffic Prevention Act, (ITPA) supported by Section 370 – 373 of the Indian Penal Code (IPC). However it is this very framework of ITPA and the Indian Penal Code that criminalises practices around sex work. Sex workers are directly impacted by laws relating to soliciting and doing sex work in public places which are offences under ITPA. Public places include educational institutions, places of religious worship, hostels, hospitals and any notified area. The term public place is read so broadly that inevitably, sex workers get

arrested and detained in rehabilitation homes under these provisions. Sex workers can be evicted from such premises and the premises can be sealed.

9. ITPA also provides a framework for police and Non-Governmental Organisations (NGOs) to conduct raid and rescue operations. Magistrates are authorised to close brothels and expel persons from premises where sex work is being carried out, including their residence.<sup>23</sup> Police can remove any person found on the premises where sex work is carried out, irrespective of their age and consent.<sup>24</sup> In addition clients of sex workers are also criminalised under IPC<sup>25</sup>.

## Impact of conflation with trafficking, of criminalising sex work

### Violence

10. Violence against sex workers in India is linked to the perception that they are criminals and not citizens. This has led to systemic and systematic violations of human rights of sex workers, such as the right to life, dignity, equality, equal protection and due processes under the law. Several factors put sex workers at risk of violence. Stigma attached to sex work exposes them to violence in personal spaces from family members as well as from intimate partners. Violence is used as a mechanism of asserting sexual control; it is normalised as punishment for having sex with other men.<sup>26 27</sup>
11. There is little appreciation amongst police of the contexts and factors affecting sex workers' lives,<sup>28</sup> hence they ignore complaints related to family and partner violence; instead offering advice to women about stopping sex work and settling domestic matters 'amicably'.<sup>29 30</sup> Sexual assault of sex workers is also high with little social or legal recognition. Myths surrounding the violence of rape against sex workers ensure that they are constantly on the fringes of access and redress to justice.
12. The law enforcement system is regarded by sex workers as the most repressive state agency. Police abuse sex workers, illegally detain,<sup>31</sup> sexually assault and torture them in custody.<sup>32 33</sup>
13. Sex workers report being arrested under 'public nuisance' or 'obscene conduct' provisions of the IPC. They are produced in court and released on the payment of fines. Most sex workers choose not to contest their arrest under these provisions since they find it easier to pay fines and be released.<sup>34</sup>
14. People in positions of authority routinely demand sexual favours<sup>35</sup> from sex workers for speedy redress of grievances or accessing entitlements.<sup>36</sup> They regularly verbally abuse sex workers using specific sexual innuendo and language.

EXPERIENCE OF POLICE VIOLENCE		
Pan India Survey of 3000 sex workers		
Abusive Language	1431	50%
Beaten, Hair pulled,	1011	35%
Beaten with belts		
Threatened	1052	37%
Forced to bribe	569	20%

### Raid, Rescue and Rehabilitation: Violation of Human Rights of Sex Workers

15. Perhaps the most widespread human rights abuse emerges from the rescue and rehabilitation interventions. These interventions involve brothel raids by special police officers and NGO workers, where women are "rescued" and placed in rehabilitation facilities. Police raids, frequent in red light areas and under the pretext of rescuing minors, do not distinguish between minors and consenting adults. In 2012, an operation was carried out over three or four days in a red light area called Simplex building in Mumbai and over 200 women were "rescued" and sent to "correction homes".<sup>37</sup>

### **Police excesses during raids**

16. Narratives of raid and rescue operations indicate the highly abusive and violent nature of these operations. Arbitrary police action during raids, with scant respect to rights of sex workers and those residing in the buildings deemed to be brothels is common. Recent research by SANGRAM found that non-sex workers who happened to be visiting their relatives in the buildings that were raided were also bundled into vans in state of undress.<sup>38</sup> Besides using torture such as putting chilli powder in the genitals<sup>39</sup>, the police routinely humiliate and frighten the women picked up through verbal abuse and threat of violence by brandishing batons.<sup>40</sup> In one instance, in complete violation of the rights of detainees, police reportedly made women clean up the police station.<sup>41</sup> The systematic humiliation continued right up until the court appearances, where even before any legal process begins, the women detained are treated as criminals with no right to redress. They were also forced to "accept their guilt"<sup>42</sup>, even if the cases are fake<sup>43</sup>. The police, who routinely take women picked up for medical tests to determine whether or not they are minors, set the example for discriminatory treatment at medical facilities.<sup>44</sup>
17. Research evidence shows that the consent of the adult women in sex work who are "rescued" is immaterial, and they were remanded to correction homes despite testifying that they were in sex work willingly.<sup>45</sup> These adult women were released into the care of parents or family members on the condition that they would give up sex work. Often the judgments handing over "custody" of the adult sex worker to the parent or family member are based on moral judgments.
18. The SR-VAW has reported that rehabilitation of sex workers in India is an issue for concern<sup>46</sup>. The Supreme Court of India has observed that rehabilitation training assistance for sex workers should not be made contingent on forcible stay in corrective homes, nor can sex workers be involuntarily incarcerated in corrective homes "which they consider a virtual prison".<sup>47</sup> Despite these observations, forced rehabilitation continues to be the norm.

### **Incarceration Rather than 'Rehabilitation'**

19. Women who had been picked up and incarcerated in the so-called 'rehabilitation home' (*Sudhar Griha*) described inhuman conditions, sub-standard food and an extreme state of confinement, prohibited from meeting their families, and not even being allowed to stand near the window and being beaten up for doing so.<sup>48</sup> In some instances in Kerala, sex workers were incarcerated in mental hospitals in extremely unsanitary and miserable conditions.<sup>49</sup>

### **Eviction, repatriation**

20. Sex workers were often evicted from the premises and were unable to return to their residences.<sup>50</sup> In the case of the ***Dombarwada raid*** in Kolhapur Maharashtra in 2013, over 200-250 women were residing in the 30-40 houses, and many had been resident for the past 30 years. Ever since the raid, the place was locked up and the sex workers were being prevented from entering their own houses. The women have requested the district authorities to provide them with alternative residences, but the authorities have ignored them. Most recently, in June 2016, police raided a brothel area in Satara, Maharashtra, and arrested six women in sex work on charges of “prostitution in a public place”. These adult women were sent to remand homes and those who were able to produce identification documents were “released to the custody of their families”.<sup>51</sup>
- 21. Despite irrefutable evidence emerging from government, non-government research and voices of numerous affected sex workers, the State has failed in its obligations to respect, protect and promote the rights of sex workers who are arbitrarily arrested and evicted. State inaction to assess and amend punitive laws that impact sex workers and their families has led to sex workers living in a criminal and stigmatised environment. By giving unviable and unworkable rehabilitation schemes as the only option to sex workers, the State has failed in its duty to protect the rights of sex workers.**

#### **Discrimination and Violence in Medical Facilities**

22. Sex workers experience debilitating stigma and discrimination that erodes their ability to protect their health and well-being. They prefer not to reveal their occupation when seeking care at government or private hospitals due to their experience of being stigmatised and discriminated against. Female sex workers are humiliated and criticised, made to wait for inordinately long periods of time, not examined properly, forced to undergo HIV tests, overcharged for services at private hospitals, denied medical services<sup>52</sup> delivery care; and their confidentiality violated. Sex workers also reported being discriminated and subjected to sexual demands by doctors before they were provided with medical treatment.<sup>53</sup> The vulnerable position of sex workers is further exacerbated in medical facilities.
23. Condoms found on the premises of brothels are being used as evidence of prostitution against sex workers.<sup>54</sup>

#### **Media: Violation of Right to Privacy**

24. After raids on brothels in Sangli, Maharashtra in 2005-06, the newspaper and television carried the photographs of the women detained, in clear violation of the law as well as the right to confidentiality. Since even women who were not minors or were simply living in the same abode as sex workers were picked up, it also impacted the daily lives of women and their prospects for marriage in a conservative society.<sup>55</sup> More disturbing was the fact that the police and the media seemed to be in collusion in order to humiliate the women and sensationalise the story of the raid.<sup>56</sup> Research revealed that the police also threatened sex workers with media publicity in newspapers and television channels in order to coerce them into having sex.<sup>57</sup> Street walkers in Ranchi complained that media exposure, especially in publishing photographs rendered them more vulnerable and put them at greater risk.<sup>58</sup> Sex workers also

implicated the media in biased reporting, using only court versions or police hand-outs without interviewing them or listening to their stories.<sup>59</sup>

### **Targeting Clients of Sex Workers**

25. The police routinely conduct raids and arrest and charge customers. In several legal cases<sup>60</sup> analysed, the High Courts quashed charges against customers. However, the reluctance of judges to quash charges against customers is at times reflected in observations like: "In my considered view, it is unwise to say that a customer who lurks in day and night in search of hidden avenues to quench his sexual lust is a hapless victim of a crime to place him out of the reach of the tentacles of the law which is intended to eradicate the pernicious practice of immoral trafficking of women. Such an unwarranted sympathy on a criminal will not help achieve desired results though aimed at high".<sup>61</sup>
26. However a recent 2015 order of the Telangana and Andhra Pradesh High Court marks a turning point in judicial effort to penalise customers. After quashing the charge under Section 4 of the ITPA, the High Court directed that the Magistrate proceed against the customer under Section 370 A of the Indian Penal Code (IPC) which penalises "exploitation" of a trafficked person.<sup>62</sup> Senior police officers have given directives to police stations in Mumbai to arrest customers under the pretext "that they are exploiting trafficked victims"<sup>63</sup>. The rationale provided is that if the "nuisance of customers is curbed", it will help control human trafficking.

### **Conflation of Trafficking and Migration, Denial of Labour Rights**

27. There is an urgent need to distinguish between "trafficking", "sex work" and "migration". Though many sex workers have been deceived or lured by payments into sex work and might be said to be "trafficked", there is a large number who have entered sex work without coercion or deceit, in search of a better life and livelihood. When trafficking is confused with women's voluntary migration (for the purpose of employment, residence, or escape from persecution by State or non-State actors) protectionist measures result in curbing female migration within and outside the borders of the country.<sup>64</sup> This limits women's access and opportunity to travel in search of a better life. The problems are multiplied for women in sex work. Lack of support from family and unsafe workplaces renders an older sex worker destitute and disenfranchised.

### **Denial of Safe Environment and Labour Protection**

28. Sex work happens in informal settings and can be an occasional form of income or a long term occupation. A safe working environment through standard labour protection measures continue to be denied to sex workers<sup>65</sup>. This includes access to benefits, legal redress for workplace grievances, adequate health and safety regulations. Detention of sex workers in rehabilitation centres without access to legal counsel or right to appeal are human rights infringements that need protection under adequate labour clauses.

### **Challenge of Documentation**

29. Stigma related to their work and identity and the migratory nature of work prevents sex workers from procuring identity documents essential to accessing entitlements. For instance in 2009 it was estimated that only 20 percent of over 5000 sex workers in Delhi had a voter's ID card.<sup>66</sup> Sex workers from the National Network of Sex Workers also shared that residence proof, father's name and caste, and the ration card were some documents required for getting

their children registered in schools.<sup>67</sup> Sex workers applying for housing schemes narrated that they were asked for proof of residence and ration cards. The Public Distribution System (PDS), meant for people below the poverty line to access food items cheaply, needs supporting proof of sex workers being below poverty line.

30. The SR-VAW has observed that lack of identification cards or status of unregistered citizens contributes to the normalisation of violence against women<sup>68</sup>.
31. While the Supreme Court's recommendation to the Central and State government to relax verification criteria for obtaining identity cards and ration cards for sex workers needs to be implemented, it is critical to engage with the barriers posed by the stigmatised identity of sex workers. Landlords refuse to issue rent receipts or rental agreements.<sup>69</sup> The State needs to ensure that these documents are provided to the applicants in a time-bound manner and the reasons for refusing the documents be clearly provided in written to the applicants.

## Recommendations

### 32. Stop conflation of sex work and trafficking in law and policy

- a. Implement the recommendations of the Special Rapporteur on Violence Against Women. Ensure that anti-trafficking laws are not used to abuse the human rights of people in sex work.
- b. Trafficking of Adult Persons and Trafficking of Children should be dealt with under two separate laws to ensure that consenting adults are not infantilised and children are given justice.
- c. Strengthen efforts of community-based organisations and collectives of sex workers to fight trafficking in their communities.

### 33. Fully decriminalise sex work and related activities

- a. Repeal laws that prohibit consenting adults in sex work, such as laws against "immoral" earnings, "living off the earnings" of prostitution and brothel-keeping.
- b. Complementary legal measures must be taken to ensure safe working conditions for sex workers.
- c. Ensure that existing civil and administrative offences such as "loitering without purpose", "public nuisance", and "public morality" are not used to penalise sex workers and administrative laws such as "move on" powers are not used to harass sex workers.
- d. Shut down compulsory detention or rehabilitation centres for people in sex work.
- e. Provide sex workers with evidence-based, voluntary, community empowerment services.

### 34. Develop mechanisms to recognise and act against violence faced by sex workers, strengthen accountability of law enforcement

- a) Guard against arbitrary arrest and detention of sex workers, and investigate complaints of harassment, extortion and abuse by law enforcement personnel.

- b) Maintain confidentiality and respect privacy of sex workers approaching law enforcement agencies and judiciary for redress in cases of sexual assault, exploitation and violence.
- c) Sensitivity to issues faced by sex workers should be made a part of training for police personnel, public prosecutors and the judiciary in partnership with community organisations of sex workers.

**35. Strengthen sexworkers' access to justice**

- a) Strengthen National Human Rights Instruments (NHRI's) and increase their accountability to respond to complaints or initiate *suo moto* action reports of violence and rights violations by state and non-state actors against sex workers.
- b) Ensure free legal aid services are available in rural areas for sex workers and offered by lawyers who have been trained in issues faced by sex workers.
- c) Prohibit mandatory HIV and STI testing of sex workers following arrest.
- d) Ensure implementation of the Supreme Court recommendations to issue identity documents and ration cards to sex workers at the national, state, district and sub-district levels.

**36. Ensure participation in policy making**

- a) Ensure the empowerment, active participation and leadership of sex work networks, federations and collectives in designing policies and processes for accessing social entitlements.
- b) Ensure participation of sex work organisations in drafting/ amending relevant laws, policies and programmes and in their implementation.

<sup>1</sup> Annual Report, 2009-10, National AIDS Control Organisation, Ministry of Health and Family Welfare, Government of India.

<sup>2</sup> UNAIDS (2002) Technical Update Sex Work and HIV/AIDS, p.3. UNAIDS (2009) Guidance note on HIV and sex work, p. 15.

<sup>3</sup> Para 20, Page 6, Report of the Special Rapporteur on Violence Against Women its causes and consequences, Rasheeda Manjoo, Human Rights Council, Twenty sixth session, A/HRC/26/38/Add. 1

<sup>4</sup> UN Economic and Social Commission for Asia Pacific (ESCAP) Resolution 66-10, *Regional call for action to achieve universal access to HIV prevention, treatment, care and support in Asia and the Pacific*, 2010

(29 September 2011), available from [http://www.unescapsdd.org/files/documents/HIV\\_IGM1\\_INF4.pdf](http://www.unescapsdd.org/files/documents/HIV_IGM1_INF4.pdf)

<sup>5</sup> UN ESCAP Resolution 67-9, Asia pacific regional review of progress in achieving declaration of commitment on HIV and political declaration on HIV/AIDS, 2011

<sup>6</sup> Commission on AIDS in Asia (2008), *Redefining AIDS in Asia, Crafting an effective response*, New Delhi: Oxford University Press.

<sup>7</sup> Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, Anand Grover, A/HRC/14/20, 27 April 2010

<sup>8</sup> Global Commission on HIV and law (2012), op. cit., p 43

<sup>9</sup> UNDP (2012), Sex Work and the Law in Asia and the Pacific, *HIV and human rights in the context of sex work*. p 34-39

<sup>10</sup> ibid. p 39

- 
- <sup>11</sup> Global Commission on HIV and the law (2012), op.cit., p43
- <sup>12</sup> UNDP (2012), op. cit, p 24
- <sup>13</sup> Human Rights Council (2010), op. cit., p 15
- <sup>14</sup> ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200), Geneva: ILO.
- <sup>15</sup> UNDP (2012), op cit., p 35
- <sup>16</sup> Global network of sex work projects (2013), *Third parties briefing paper*. [http://www.nswp.org/sites/nswp.org/files/thirdparties3\\_0\\_0.pdf](http://www.nswp.org/sites/nswp.org/files/thirdparties3_0_0.pdf). Viewed on December 2013
- <sup>17</sup> WHO, UNFPA, UNAIDS, Global Network of sex Work Projects, The World Bank. Implementing comprehensive HIV/STI programmes with sex workers: practical approaches from collaborative interventions. Geneva, World Health Organisation, 2013. P 8
- <sup>18</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations Nos. 19, Article 6. Adopted at the Eleventh Session, 1992*, available at: <http://www.refworld.org/docid/453882a422.html> [accessed 14 December 2013]
- <sup>19</sup> ibid. Specific recommendations 24 (h)
- <sup>20</sup> UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on the combined seventh and eight periodic reports: Hungary*, 26 March 2013, CEDAW/C/HUN/CO/7-8
- <sup>21</sup> Budhadev Karmaskar v. State of West Bengal (2011) 11 SCC 538
- <sup>22</sup> The Supreme Court panel was constituted by the Supreme Court of India to provide recommendations on how sex workers could be supported to live a life of dignity in consonance with the provisions of Article 21 of the Constitution of India. In its 15<sup>th</sup> interim report submitted to the Supreme Court in 2015, the panel made extensive recommendations to read down the provisions of the Immoral Traffic Prevention Act. In its report it stated that some provisions of the Act were in conflict with the object of creating conditions conducive for the sex workers to live with dignity in accordance with the provisions of Article 21 of the Constitution. The suggestions include amending the section on prostitution in public places being deemed an offence, deleting soliciting as an offence, reducing the maximum period of detention for the offence of prostitution in public places, limiting the raid and rescue provision to children in prostitution and those found to be in brothels against their will. The panel also recommended that court orders closing brothels and evicting “offenders” should be made appealable. The panel recommended that the ITPA provision allowing magistrates to remove prostitutes from any place should be deleted.
- <sup>23</sup> Section 18, 20 of the Immoral Traffic Prevention Act.
- <sup>24</sup> Section 13, 15 of the Immoral Traffic Prevention Act.
- <sup>25</sup> Section 370A (2) of the Indian Penal Code states: “Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.”
- <sup>26</sup> Case study of Prema, Kanyakumari, Tamil Nadu, 2012, No. VRC#1 in Annexure 1
- <sup>27</sup> Case study of Sunitha, Uttara Kannada, Karnataka, VRC#4 in Annexure 1
- <sup>28</sup> Case Study of Rathna, Mysore, Karnataka, 2012 VRC#2 in Annexure 1
- <sup>29</sup> Case study of Suchitra, Gadag, Karnataka, 2013 VRC#6 in Annexure 1
- <sup>30</sup> Case study of Anjuman (name changed), Gadag, Karnataka, 2012 PHF#1 in Annexure
- <sup>31</sup> Case study of Sumathi (name changed), Uttara Kannada, Karnataka, 2013, No. PHF#3 in Annexure 1
- <sup>32</sup> Case study of Anu Mokal (2010), op.cit.
- <sup>33</sup> Case studies of Uma, Leela, Jareen, Lakshmi, Shimoga, Karnataka, 2012. PV#3 in Annexure 1
- <sup>34</sup> Case studies of Manisha Salunkhe, 2011; Rekha Bidkar 2012; Shanta Jadhav, 2010; Sunitha 2010 op.cit.
- <sup>35</sup> Case study of Kalpana, Tirupathi, Andhra Pradesh, 2013. No. PHF#2 in Annexure 1
- <sup>36</sup> Pan India Survey of Sex Workers, 2011, Sahani, R and Kalyan Shankar, available at [http://www.sangram.org/resources/Pan\\_India\\_Survey\\_of\\_Sex\\_workers.pdf](http://www.sangram.org/resources/Pan_India_Survey_of_Sex_workers.pdf).
- <sup>37</sup> Case study, Simplex building raid, Mumbai, Maharashtra 2012. No. RRC#5 in Annexure 1

---

<sup>38</sup> Testimony of Tangeya, Sangli, February 18, 2016: I didn't even have footwear on my feet, I was unwashed, they forced me into a van. There was total chaos, women were trying to run – they pulled the women by the hair, pulled their saris – some women were disrobed, some women were still in their [night] gown. The women who were with customers were dragged out as they were – it was one of the most humiliating experiences.

<sup>39</sup> Testimony of Valsala, FGD, Thrissur, January 19, 2016: Police caught us and took us to the police station and they tortured us; they put chilli powder in our eyes and on our private parts. They sexually harassed women and then they produced the women to the court. Police booked women under fake cases.

<sup>40</sup> Testimony of Rekha, Sangli, June 22, 2016: "In the police station, the police tried to frighten us with a big lathi [baton]. We thought that they would beat us. We were asked to stand in a line touching the wall."

<sup>41</sup> Testimony of Seenath, FGD, Kozhikode January 20, 2016: "Police make the women to clean the police station and sometimes they also sexually harass women."

<sup>42</sup> Testimony of Nirmala, Sangli, January 13, 2016: They used to round us up and take us to the police station. We were kept overnight and then the next day we were all told that we would be presented in court. They would register our names in the police books. It was a humiliating experience to be taken to court. The police would be on either side and we would be made to walk in between all the way to the court. When we were presented in the court they would tell us we are not to open our mouths and when the judge asked us, we must accept our guilt by nodding our heads."

<sup>43</sup> Testimony of Seenath, FGD, Kozhikode, January 20, 2016: "Police also create false witnesses to build up their case while they arrest women. I was a victim of a false case filed by the police."

<sup>44</sup> Testimony of Anupama, Warangal, February 9, 2016: The police raided our house at 7 'clock in the morning. They took us in a van to medical college and did many tests. The people at the hospital were talking badly about us. They joked and insulted us. It was like a hell to us, very painful and humiliating. We were then taken to a 'home' in Hyderabad and put there for 23 days.

<sup>45</sup> Case Study of Dombarwada raid, Kolhapur, Maharashtra, 2013- 2014. No. RRC#1 in Annexure 1

<sup>46</sup> UNHRC (2014) Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to India, p 7 para 24. A/HRC/26/Addl.

<sup>47</sup> Budhadev Karmaskar v. State of West Bengal (2011). Interim order dated August 24, 2011

<sup>48</sup> Testimony of Bharati, Sangli, May 5, 2016: "And some of them have not returned from their villages because they were so frightened by the way police behaved with us. They beat us, used bad words, did not allow us to meet our parents for months and did not send us home. One of my friends with whom I was arrested, died as a result of all these sufferings. I came back to Sangli but she never returned, and died in her village. Sometimes we were sleeping hungry as we could not eat that uncooked and tasteless food. My health was deteriorating in the remand home. They were not allowing anybody to give us food. If we were standing near the window, then the staff would come and close the window and beat us, asking whom were we calling."

<sup>49</sup> Testimony of Shakeela, FGD Kozhikode, January 20, 2016: "The police arrested me and forcibly took me to a mental hospital. I was ignorant and I had not made any mistake. There were many women like me and there was a separate place for mentally ill women. I was there for few days. The food was not good, the place was not proper, there was no proper place to sleep and the toilets were bad. They were providing skill development trainings. I was not interested and finally I managed to escape from there."

<sup>50</sup> Dombarwada raid, August 2013, op. cit.

<sup>51</sup> Case Study RR#7 Raid on *Mulacha Odda* Brothel, Satara, Maharashtra. 23 June 2016. Annexure 1

---

<sup>52</sup> Case Study of Valarmathi, Kanyakumari, Tamil Nadu, 2013. (No. MS#1); Bharati Kamble, Sangli, Maharashtra, 2004 (No. MS#5); Kiran Deshmukh, Sangli, Maharashtra, 2010 (No. MS#4); Usha Kamble, Sangli, Maharashtra, 2013 (No. MS#6). Annexure 1

<sup>53</sup> FGD Gumla, February 12, 2016: Firstly doctor wants to [have] sex with us and then they give treatment.

<sup>54</sup> In a brothel raid conducted by police in Satara, Maharashtra in June 2016, the First Information Report filed states that condoms were found in the brothel indicative of prostitution. Six women were arrested and sent to remand homes. Detailed case study no. RRC#7 in Annexure 1.

<sup>55</sup> Testimony of Tangeyva, Sangli, February 18, 2016: "You tell me who will marry me after my photo is carried in newspapers and television for being arrested in a raid. I was not young and I was not doing sex work at that time. Despite that I was picked up and sent to the rehabilitation home. I am a Devadasi but I was not doing sex work, I tried telling them that, but they refuse to listen to me. They picked me up."

<sup>56</sup> Testimony of Tangeyva, Sangli, February 18, 2016: At the police station the press and media were taking our photographs non-stop, they [also] were taking videos. We tried to cover our faces, but they were forcibly lifting the veils and taunting us saying, you had no shame there – now why are you ashamed?"

<sup>57</sup> Testimony of Meenakshi, FGD, Koppal, January 10, 2016: In turn, he threatened that he would publicise my photograph in TV channels and papers

<sup>58</sup> Focus Group discussion with female sex workers, Ranchi, February 11, 2016.

<sup>59</sup> Testimony of Selin, FGD, Thrissur, January 19, 2016: In court they will listen only to the police version, later outside the court, media is only interested with the news, police use the media but media will never take women's versions. Media reports only the police version. In this way they humiliate women.

<sup>60</sup> S. No. 13: Shajahan vs State of Kerala; S. No. 14: Sreejith @ Ayyappan vs State of Kerala; S. No. 22: Goenka Sajan Kumar vs The State of A.P.; S. No. 34: Karthik Hegde vs State of Karnataka; S. No. 42: Katamoni Nagaraju vs State of Telangana; S. No. 43: Mohammed Shaeed vs The State of Telangana

<sup>61</sup> S. No. 41 - Mohammed Shaeed vs The State of Telangana

<sup>62</sup> S. No. 44: S. Naveen Kumar vs State of Telangana.

<sup>63</sup> News report titled, 'The police start arresting customers of sex workers' *Mumbai Mirror*, Mumbai edition, July 24, 2015. "Following a recent order by Mumbai Police Commissioner Rakesh Maria to all police stations, the cops have begun booking customers visiting brothel and exploiting trafficked women under the stringent Section 370A... Elaborating on the purpose served by booking customers, Maria said, 'Apart from booking traffickers if we can manage to curb the nuisance of customers, then we will be able to control human trafficking.'"

<sup>64</sup> 'Trafficking'. WOREC, Nepal. <http://www.worecnepal.org/programs/trafficking> (downloaded on 14.04.2014)

<sup>65</sup> UNAIDS (2009) Guidance note on HIV and sex work. ILO Recommendation 200 on HIV and the world of work, ECOSOC, overview of good practices for multi-sectoral cooperation, 2011

<sup>66</sup> UNDP 2012, Sex work and the law in Asia and the Pacific, p 56

<sup>67</sup> Report of Meeting on CEDAW status and sex workers, National Network of Sex Workers, Bangalore, 2013

<sup>68</sup> UNHRC (2014) Report of the Special Rapporteur on violence against women, its causes and consequences, Mission to India, p 17. Para 70 A/HRC/26/Addl.

<sup>69</sup> Case study of Maliga, Tiruvanamalai, Tamil Nadu, 2013. No. SE#1 in Annexure 1