



Inputs – SR – VAW – Prostitution and Violence against Women

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31 January 2024

Hidden Forms of Prostitution

The term 'prostitution' carries historical connotations that perpetuate a stigmatized view of sex work. It is essential to review the complexities surrounding this issue in the contemporary context, especially as some adult women make a conscious choice to engage in sex work in a modern liberal labour market for various reasons. It is crucial to move beyond the traditional, often degrading, and stigmatizing perceptions associated with the term. The term 'prostitution' employed in these questionnaires is demeaning and has been a source of psychological distress for our community. Therefore, moving forward in this document, our responses will be framed within the context of consensual adult sex work.

According to the UN definition, sex workers include female, male, and transgender adults (18 years of age and above) who receive money or goods in exchange for consensual sexual services, either regularly or occasionally.² The Nepal government has recognised and have been using the terms 'sex work' and 'sex workers', women engaged in informal entertainment in various documents³, such as the National HIV Strategy and the annual report of the National Human Rights Commission.

Profile

The National Centre for AIDS and STD Control (2017) estimated that there are nearly 55,000 female sex workers in the country⁴, with the largest number residing in the Kathmandu Valley, while the UNAIDS Nepal country office projected around 66,000 sex workers in Nepal.⁵

Profile of those who solicit women in prostitution As our focus is on adult individuals who choose to engage in sex work, this question is not applicable to our context. We consistently emphasize the legal framework, which deems any involvement in recruiting someone into the trade, especially minors, or living off someone else's earnings from sex work, as punishable by law. There have been cases where we reported such individuals to law enforcement authorities for violations of human trafficking laws.

Forms of violence Sex workers encounter violations of their rights at every juncture, facing challenges from clients, intimate partners, society, and law enforcement agencies. These challenges stem from prevailing social norms and legal circumstances where sex work is not recognized as a legitimate occupation.

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²UN Guidance Note on HIV and Sex Work 2009-2012:

https://www.unaids.org/sites/default/files/media_asset/JC2306_UNAIDS-guidance-note-HIV-sex-work_en_0.pdf

³ National HIV Strategic Plan 2021-2026, Ministry of Health, Government of Nepal

⁴ Mapping and size estimation of FSW, MSM and PWID, National Centre for AIDS and STD Control (NCASC) 2016

⁵UNAIDS Nepal country office



Specific forms of violence against sex workers include abuses by authorities, police brutality, arbitrary detentions, forced and free sex.⁶ Police abuse, ranging from physical violence to coerced sexual services, arbitrary arrests, withholding identity card, and threats to reveal working status to our families and society, further restricting our ability to organize and advocate for our rights. Intimate Partner Violence is prevalent in non-commercial relationships. Unfortunately, we sex workers often find it challenging to seek protection from state agencies due to systematic restrictions on their access to resources and limited participation in society. ⁷

In the current digital world, sex workers, like other women, often trust their partners or are coerced into trusting them to film their private moments. Unfortunately, in numerous instances, we sex workers end up being blackmailed by partners. Thousands of cases of such blackmail have been reported at the field, compelling sex workers to make payments, causing severe mental distress, to the extent that some have attempted suicide. Sadly, we face challenges reporting such incidents to the police.

Police often violate their consent when sex workers are forced to disclose the names of clients and locations after they are arrested and stated as a condition for their release. ⁸

Administrative violence affects female sex workers, as well as other Nepali women, who have children but lack citizenship. According to the law, women with children are deemed married, and they can only obtain citizenship through their husbands, not from their parents' side.

Sex workers are neglected and rejected by their families. Society excludes them from social and family cultural and social events, subjecting them to disdain, discrimination, and humiliation. The stigma and socio-economic discrimination also affect them when they attempt to engage in alternative forms of employment, as society tends to reject their services and products.

Perpetration of violence against women in prostitution

As such violence against sex workers is structural, larger society, including politicians and lawmakers, policymakers, and key stakeholders such as government officials, law enforcers like judges, lawyers, media and police, as well as intimate partners who exploit their situations, contribute to the perpetuation of violence against sex workers.⁹ Societal dynamics, influenced by traditional gender norms, patriarchal values and principals often dictate that a woman needs a man's support to navigate social standing. This power imbalance and societal expectation create an environment where violence against sex workers can persist. The responsibility for addressing and preventing such violence lies with these entities, each playing a role in shaping the conditions that contribute to the vulnerability of sex workers.

Linkages, if any, between prostitution and the violation of the human rights of women

As sex work involves two or more consenting adults, the violation of human rights during the activity is not inherent

Links between pornography and/or other forms of sexual exploitation and prostitution

Pornography is an act conducted in a controlled environment with consenting adult actors. Pornography and sex work belong to distinct genres.

Consent

⁶Sex work and violence in Kathmandu, Nepal: Understanding factors for safety and protection; UNFPA, UNDP, JMMS, BDS,

⁷Sex work and violence in Kathmandu, Nepal: Understanding factors for safety and protection; UNFPA, UNDP 2014.

⁸Survey, JMMS; Blue Diamond Society (BDS). "Sex work and the law in Asia and the Pacific", 2012, UNDP and UNFPA.

⁹Bhattacharyya, M., Fulu, E. and Murthy, L. with Seshu, M.S., Cabassi, J. and Vallejo Mestres, M. (2015). The Right(s) Evidence – Sex Work, Violence and HIV in Asia: A Multi Country Qualitative Study. Bangkok: UNFPA, UNDP and APNSW (CASAM).



In the realm of adult consented sex work, prior to each transaction, there is typically a negotiation process where all parties involved must reach an agreement on all aspects of the services. Consequently, the matter of consent emerges as a fundamental and critical aspect within the context of sex work.

Legislative framework and policies Nepal guarantees the right to access justice and legal aid for citizens who are economically or socially unable to access their rights.¹⁰ However, the current legislative framework structures and policies in Nepal are male dominated and do not acknowledge violence against sex workers. This is primarily due to a prevailing social bias, which believes that sex workers deserve any form of violence directed towards them when they deviate from patriarchal gender norms. This viewpoint contributes to a significant gap in legal protections, raising concerns about the fair treatment and safeguarding of the rights of sex workers compared to other women in society. This oversight raises important questions about the inclusivity and adequacy of current legal frameworks in addressing the specific vulnerabilities and rights violations experienced by sex workers.

Measures to collect and analyse data at the national level

The Government of Nepal (GoN) and UNAIDS have conducted size estimation of sex workers in the context of HIV prevention and treatment (see answer for question 2). However, no measures have been taken by the GoN, including the National Human Rights Commission, to initiate the collection and analysis of data related to women's rights for preventing and mitigating violence against sex workers to comprehend how the rights of sex workers are being violated in the current legal context. These issues were highlighted in the CEDAW Shadow Report, 2018.¹¹

Measures to support women who wish to leave sex work In Nepal, traditional feminist organizations purporting to do “rescue and rehabilitation” work, often pressure women to leave sex work, making access to their services conditional on leaving sex work. Many of these women, enticed by financial incentives, reluctantly agree to do so. However, in practice, they often find it challenging to leave sex work due to insufficient alternative income. It is crucial to acknowledge that sex workers, like other women, have the right to choose their profession, and the decision should be respected without coercion or inducement. Women seeking to exit this profession are often those physically unable to continue the work. In such cases, their earnings are reduced significantly, sometimes to nothing. It is recommended to design programs specifically targeting these women. However, for the practical effectiveness of any meaningful economic empowerment program, comprehensive initiatives those are designed with sex workers involvement are essential.

Obstacles faced by organizations and frontline service

- Mainstream feminist organizations and NGOs maintain their standpoint that sex work is not legitimate work. They have incorporated voluntary adult sex works under the anti-human trafficking responses, resulting in negative consequences for sex workers such as violation of sex workers labour rights and contributing to social stigma.
- Exclusion of the sex workers' rights movement within the broader women's movement poses significant challenges. By excluding the perspectives and concerns of sex workers, there is a risk of overlooking labour rights and related issues they face. This exclusion perpetuates inequalities within the larger framework of gender equality.
- Activists and organisations advocating for the health and human rights of sex workers, as well as addressing issues of violence against them, are often perceived by the government and key stakeholders as promoters of sex work. This perspective creates a challenging environment for these organizations,

¹⁰https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FNP L%2F32559&Lang=en

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emphasizing the need for a more nuanced understanding of their objectives within the broader socio-legal context surrounding health and human rights advocacy for sex workers.

Lesson Learnt

To address the human rights of sex workers, proven effective strategies include empowering individuals within the community as leaders and campaigners. Such empowerment enables sex workers to effectively voice their concerns with policymakers and law enforcement agencies. Collaborating with the larger women's rights movement is another crucial strategy. By integrating sex workers' rights into the broader women's rights agenda, it ensures a more inclusive approach that addresses the structural gender challenges faced by sex workers community.

Perceiving adult, consensual sex work solely as violations of women's rights and categorizing sex workers merely as victims of human trafficking undermines their rights, dignity and identity. This oversimplification fails to acknowledge the agency of sex workers, undermining their ability to assert their rights and contribute to a more nuanced discourse surrounding their experiences.

Policy Making National and international level Sex workers are frequently excluded from participating in national-level discussion on policymaking. For instance, all individuals have the freedom to establish NGOs by clearly outlining their background and specifying their target beneficiaries. However, female sex workers cannot do so, violating their rights to be organised. This is violation of the ILO convention on the right to freedom of association.

Recommendation

To safeguard the rights of sex workers and to prevent and end violence associated with consensual, adult sex work, the following steps are crucial;

- Full decriminalization of sex work is essential to reduce violence against sex workers and increase sex workers ability to consent.
- Distinguishing between consensual, adult sex work and survivors of human trafficking for prostitution is imperative, and this distinction should be clearly articulated in national laws, policies, programs, and strategies. It is essential to recognize the unique considerations and rights associated with these two distinct aspects within the realm of sex work.
- Implement measures to fulfil the recommendations outlined in the CEDAW 2018 report concerning Nepal, with a specific focus on preventing and addressing the concerns of women engaged in sex work.

