

**Name of NGOs making submission: Joint Submission BY:**

1. Sex Workers and Allies South Asia (SWASA)- SWASA (Regional South Asia Alliance of NGO and Collective partners) PARTNERS:
2. Standup Movement Lanka, Katunayake, Gampaha District
3. Prajadiriya Padamana, Puttalam District
4. Trans Equality Trust, Kelaniya, Gampaha District
5. Abhimani Women's Collective, Gampaha District
6. Women's Resource Centre, Kurunegala District
7. SWASA North Group
8. Human and Natural Resource Development Foundation (HNRDF), Galle District
9. Red Umbrella Network Sri Lanka

**1. STATE PARTY TO WHICH INFORMATION RELATES: SRI LANKA**

**2. CAN THE SUBMISSION BE POSTED ON CEDAW**

**WEBSITE FOR PUBLIC INFORMATION PURPOSES: YES**

## CEDAW Shadow Report on Status of Sex Workers in Sri Lanka

### Introduction:

This NGO report from Sri Lanka focuses on the experiences of marginalised sex workers in the country. It highlights the pervasive stigma, discrimination, violence, and lack of access to justice faced by them, and calls for urgent action to address these issues. This report is prepared with inputs from sex workers belonging to nine organisations.

### Article 1:

As per Article 12 of the constitution of the Democratic Socialist Republic of Sri Lanka, every one is equal before the law and unfair treatment of a person based on certain grounds, including: race, religion, language, caste, sex, political opinion, place of birth and any such grounds is discrimination.<sup>1</sup>

Besides Article 12, the state through Article 27(5) of the constitution mentions that; *'The State shall strengthen national unity by promoting cooperation and mutual confidence among all sections of the People of Sri Lanka, including the racial, religious, linguistic and other groups and shall take effective steps in the fields of teaching, education and information in order to eliminate discrimination and prejudice.'*

However, in violation of the equality and non-discrimination principles, women who provide sexual services are indirectly criminalised through The Vagrants Ordinance and Brothels Ordinance. Sexual service providers referred to as sex workers, suffer from intersectional inequalities stemming from law, stigma, family life, low literacy and education, access to social security and health services, violence and access to justice.

### Recommendations:

1. Read down the criminalisation of sexual services through The Vagrants Ordinance and Brothels Ordinance.

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<sup>1</sup>It is important to highlight a 2024 Supreme Court's ruling regarding the Gender Equality Bill, No.256, 2024. In a clear violation of Art 1 of CEDAW, the Court's interpretation, aligned with a petition from a religious group claiming the bill violated constitutional principles if "abortion and prostitution" are legalised. [https://supremecourtdemo-cert.melstasoft.com/wp-content/uploads/2024/06/sc\\_sd\\_54\\_2024\\_sc\\_sd\\_55\\_2024.pdf](https://supremecourtdemo-cert.melstasoft.com/wp-content/uploads/2024/06/sc_sd_54_2024_sc_sd_55_2024.pdf)

## Article 2:

Sri Lanka does not have laws that explicitly criminalize or render sex work to be illegal. However, through the Vagrants Ordinance<sup>2</sup> which criminalizes soliciting sex there is an indirect criminalization that impacts the legal framework around sex work. Despite the repeated concern raised by CEDAW committee about the discriminatory effect of this Ordinance on women in prostitution and recommending its repeal (CEDAW/C/LKA/CO/7, para. 28), CEDAW/C/LKA/CO/8, para. 27 (g), the Ordinance has not been repealed<sup>3</sup>. The police continue to arbitrarily arrest sex workers<sup>4</sup>, sometimes using their possession of condoms as evidence of engaging in sex work, and subject these women to harassment, sexual bribery and extortion.

Sex workers are frequently arrested under Vagrancy Ordinance<sup>5</sup> with law enforcement framing them as drug offenders, leading to criminal charges under Section 54 of the Penal Code with long term impacts on their lives. In addition, it results in significant financial burdens, as the cost of bail is high, and the process is time-consuming. Consequently, sex workers may lose income due to their inability to work and in some cases may also lose their housing as many reside in daily payment boarding houses. The Brothels Ordinance (Ordinance No. 5 of 1889), enacted to suppress brothels and related activities also has a negative impact on sex workers. It criminalizes the operation or management of a brothel and penalizes those who allow their premises to be used for such activities.<sup>6</sup>

As of 2020, out of a population of about 20.4million, there is an estimated 30,000 female sex workers in Sri Lanka, which is about 0.56% among adult females<sup>7</sup>. The Vagrancy Ordinance and

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<sup>3</sup> The state has appointed a committee to investigate the amendments to the Vagrants Ordinance, tasked with identifying the gaps and based on its findings, a decision was made to repeal or amend the Ordinance. However, while discussions about amending or repealing the Vagrancy Ordinance began, they were abruptly halted in 2022, and no further steps have been taken. No sex worker groups were included in the discussions.

<sup>4</sup> Case studies CR#2 P2, 3 P4, 7 P8, Annexure 1

<https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

<sup>5</sup> Case studies Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

<sup>6</sup> The Ordinance defines the roles of brothel keepers and managers, holding them legally accountable, and grants courts the power to terminate tenancies linked to brothels. Offences are triable in Magistrate's courts and are considered non-cognizable and bailable.

<sup>7</sup> Report on Estimating the population size of female sex workers and transgender women in Sri Lanka, National Library of Medicine;

[https://pmc.ncbi.nlm.nih.gov/articles/PMC6961924/:~:text=We%20estimated%20that%20there%20are,0.65%25\)%20among%20adult%20females](https://pmc.ncbi.nlm.nih.gov/articles/PMC6961924/:~:text=We%20estimated%20that%20there%20are,0.65%25)%20among%20adult%20females) .

the Brothel House Ordinance disproportionately target and criminalize this group of women who are in sex work of their own volition. These have chosen sex work as their livelihood. These laws contribute to a climate where individuals engaged in sex work face systemic discrimination and violence, stripping them of their basic rights and dignity. The enforcement of these ordinances frequently leads to the arrest of sex workers. They often face mandatory STI/HIV testing when arrested, despite there being no such requirement in law. The impact of such laws has on sex workers is significant. While violence and discrimination against them persist, the state agencies responsible for the same are not held accountable.

Lack of legal recourse is a serious barrier to substantive equality for sex workers in Sri Lanka. Due to stigma and fear of retribution, many sex workers are hesitant to report abuses, leaving them without adequate legal protection or recourse. A sex worker says "We are harassed on false pretexts, and we don't even have the right to vote because we often lack national identity cards or live far from our registered addresses." This systemic discrimination creates a pervasive climate of fear and mistrust toward law enforcement<sup>8</sup>. While sex workers are routinely targeted by law enforcement agencies, there are no steps taken by the state to ensure that they are informed about their rights. Lawyers who take advantage of the uninformed client play a part in prolonging their cases instead of expediting them.<sup>9</sup>.

The Legal Aid Commission of Sri Lanka does provide free legal assistance to low-income status groups, including sex workers, with the aim of helping them navigate the legal challenges they often face due to their profession. This service is extended to LGBTIQ communities without the criterion of their economic status but not to sex workers. There are no documented instances in which sex workers have successfully used this legal aid to address issues such as illegal arrests, violence, or human rights violations. It is reported that sex workers are uncomfortable to use legal aid services due to the biases of the legal professionals and because sex workers are not

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<sup>8</sup> "Voices of Resilience" A Needs Assessment of Female and Trans Sex Workers in Colombo and Gampaha Report Launched on 17 December 2024; Abhimani Women's Collective; [https://drive.google.com/file/d/1Ez4Av-LC5mWsjV\\_dICEdou\\_-1XL-ANUq/view](https://drive.google.com/file/d/1Ez4Av-LC5mWsjV_dICEdou_-1XL-ANUq/view)

<sup>9</sup> Status of Sex workers in Sri Lanka: A National Report 2022-23; Sex Workers and Allies South Asia- Sri Lanka Chapter published in 2023; SWASA South Asia. <https://www.swasasouthasia.org/399-resources/192247-Status-of-Sex-Workers-in-Sri-Lanka>

aware of such services. It was reported by our partners in Sri Lanka that sex workers have been asked for sexual bribes from legal professionals<sup>10</sup>.

Sex workers are not addressed or recognised as a disadvantaged group in laws and policy framework except through the lens of antitrafficking law. HIV and STI prevention programmes in Sri Lanka target sex workers as vectors of diseases. The rest of the health system is discriminatory towards sex workers once their identity is known. In effect, sex workers do not have access to legal protections, healthcare, and social services without fear of persecution, discrimination and stigma. The older sex workers face additional discriminations and deprivations in the absence of access to social protections and persisting stigma in their lives<sup>11</sup>. The effects of discriminatory legal and policy frameworks that govern a sex workers life is a violation of the principles enshrined in the Convention.

### Recommendations

1. Sexual service providers suffer the burden of State stigmatisation. Sex workers are thus denied the right to citizenship benefits. Special provisions in policy are necessary to acknowledge and address the lack of access to legal redress.

### Article 3:

Sri Lanka's key measures for women's empowerment include the National Action Plan (2017-2021) focusing on gender equality in economic, political, and cultural spheres, and the National Gender Equality and Women's Empowerment Policy promoting affirmative action. The Transitional Justice and Reconciliation Project<sup>12</sup> empowers marginalized women in justice processes. Capacity building initiatives like WIFI Suhuruliya and Nenasala<sup>13</sup> centres<sup>14</sup> enhance

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<sup>10</sup> Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

<sup>11</sup> Case Study #15 P17, Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

<sup>12</sup> PBF/IRF-154: Empowering women for an inclusive and sustainable transitional justice and reconciliation process in Sri Lanka (NUNO) by UN Multi Partner Trust Fund Office

<sup>13</sup> NENASALA is an innovative hub equipped with advanced technology, designed to empower communities by bridging the digital divide. It offers transformative IT training, facilitates access to online government services, and promotes digital entrepreneurship to foster sustainable growth and development.  
<https://nenasala.lk/>

<sup>14</sup> Suhuruliya aims to empower the nation with impactful digital solutions by embracing innovation and upholding the highest standards of ethics and professionalism, driving meaningful transformation in the lives of Sri Lankan citizens

<https://www.icta.lk/projects/capacitybuilding/suhuruliya>

women's entrepreneurship and bridge the digital divide. Additionally, maternal health programs improve healthcare access, supporting overall women's empowerment. However, there is no mention of women in sex work in these programmes.

The Women Empowerment Act No. 37, a pivotal piece of legislation designed to advance women's rights and leadership opportunities was implemented in 2024. The act establishes the National Commission on Women (NCW), which is tasked with safeguarding women's rights, addressing gender-based violence, and developing a national policy for women's advancement. The act grants the NCW broad powers to intervene in legal matters, conduct inquiries, and enforce recommendations, including the ability to initiate contempt of court proceedings if necessary. It also creates an Ombudsman for Women's Rights to handle gender-based violence complaints and establishes a National Fund for Women to support women's rights programs. While this is a very progressive piece of legislation that protects women from all forms of discrimination based on gender and sexual orientation, it does not address the rights or wellbeing of sex workers. The government does not recognize sex workers, as a group that should be protected and empowered, thereby failing to address their specific needs and rights within its legislative framework and fulfil the principle of non-discrimination enshrined in the Convention.

Sex workers rights groups have not been included in any civil society consultations.

#### Recommendations

1. Recognise the existence of sexual service providers in the country and make effective policies of inclusion.
2. Include sex workers in changing laws and policies that discriminate against them.

#### Article 4:

Sri Lanka has not implemented any temporary special measures to accelerate substantive equality for the sex workers in the country. The country has implemented a few special measures to promote gender equality and address challenges faced by women in general. This

includes a programme on women victims of violence. The implementation of these measures however has very mainstream approaches which are not accessible to sex workers.

In addition to legal hurdles, sex workers face significant barriers when seeking healthcare, largely due to societal stigma surrounding their profession. While there are programmes intended to promote safe sex practices, these initiatives are undermined by the legal risks associated with possessing condoms, which police often use as incriminating evidence of soliciting sex work and charge sex workers under the Vagrants Ordinance.

### Recommendations

#### Article 5:

In the current context of Sri Lanka, traditional gender roles and stereotypes remain deeply entrenched in societal norms and cultural practices and sex workers are highly stereotyped and stigmatised. The stereotypes contribute to the normalization of violence against sex workers, with such abuse and unequal treatment being unjustly rationalized or tolerated in Sri Lanka. Police officials disregard and trivialise sexual violence against sex workers, saying derogatory statements like, “විහින හදා ගන්න පරඹන” (*vihin hadā ganna praśna*) meaning that it is the fault of the sex worker that they were raped<sup>15</sup>. In addition, stereotyping of sex workers as mere victims, devoid of agency and in need of rescue is reflected in State policies conflating sex work and sex trafficking.

### Recommendations

1. Pass laws and formulate policies that address the use of derogatory language against sex workers.
2. Acknowledge that sex workers are not mere hapless victims. They are the first responders in any case of trafficking and should be strengthened to fight trafficking.

#### General Recommendation No 35

Female sex workers in Sri Lanka face a multitude of violence<sup>16</sup> from the state agencies, from family, clients and third parties. They have limited avenues for recourse and protection due to the legal framework, misuse of law and stigma. While there is an abundance of reported

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<sup>15</sup> As narrated by Shani (name changed), a sex worker from Pettah

<sup>16</sup> Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

violence on sex workers in Sri Lanka, there is no disaggregated data on the exact numbers. Further, the state lacks disaggregated data on the number of arrests under the Vagrancy Ordinance<sup>17</sup> resulting in no monitoring of discrimination and violence against sex workers. The state has no comprehensive measures to improve legal protections and services to sex workers.

The sex workers are subjected to many forms of gender-based violence—physical, verbal, sexual, economic, custodial and emotional—and denial of access to services. Often, when such crimes are reported they are not taken seriously by the relevant authorities.<sup>18</sup>

Protection against violence against women exist through general laws and policies such as Prevention of Domestic Violence Act, Penal Code Ordinance, and the Article 11 of the constitution. However, these are not accessible to sex workers, as they cannot go and make complaints to the police because they are worried about getting subjected to further violence. While there are many sex workers who have filed complaints at the Human Rights Commission against police and other government authorities, often the police would turn a Nelson’s eye to such complaints. There are also other incidents when the police plants drugs on sex workers and say they were arrested for the possession of drugs<sup>19</sup>.

The Vagrancy Ordinance and the Brothel House Ordinance disproportionately target and criminalise women sex workers. The ordinance gives room to subjective interpretation of circumstantial evidence and what constitutes soliciting entirely up to the police. This leads to abuse of power. Police officials neglect violence against sex workers especially sexual violence. Case studies<sup>20</sup> from sex workers mentioned that they were physically attacked by a baton, their limbs broken simply because the police believe they can have no consequence for their actions. Female sex workers face discrimination and neglect from healthcare providers as well, even though it is a mandatory service provided by the ministry of health in Sri Lanka.

Case studies show that some sex workers are forced to leave their villages and travel to other areas to carry out their work, as they fear being ostracised and facing condemnation from their

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<sup>17</sup> The Women’s Solidarity Network filed an RTI request to the Inspector General of Police of Sri Lanka regarding availability of disaggregated data on arrests under Articles 3,7 and 9 of the Vagrants Ordinance was filed in August 2024. The reply received on 28 August 2024 stated that the IGP did not have the requested information.

<sup>18</sup> Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW--Sri-Lanka>

<sup>19</sup> “Voices of Resilience” A Needs Assessment of Female and Trans Sex Workers in Colombo and Gampaha Report Launched on 17 December 2024; Abhimani Women’s Collective; [https://drive.google.com/file/d/1Fz4Av-LC5mWsjV\\_dICEdou\\_-1Xl-ANUq/view](https://drive.google.com/file/d/1Fz4Av-LC5mWsjV_dICEdou_-1Xl-ANUq/view)

<sup>20</sup> Status of Sex workers in Sri Lanka: A National Report 2022-23; Sex Workers and Allies South Asia- Sri Lanka Chapter; SWASA South Asia; 2023 <https://www.swasasouthasia.org/399-resources/192247-Status-of-Sex-Workers-in-Sri-Lanka>

families and communities<sup>21</sup>. The Ministry of Women and Child Affairs and Social Empowerment (MWCASE) operates a shelter for displaced women victims of violence, however the capacity to hold women in these spaces are limited.

The state party report (**CEDAW/C/LKA/9 Page 8, paragraph 27 in response to the paragraph 7 of the concluding observations CEDAW/C/LKA/CO/8**) claims that, the Police academy conducts annual TOT programs on human rights including CEDAW which trickle down to the Police service members through the master trainers. However, cases in which sex workers have been arbitrarily arrested under the vagrants ordinance, arrested for false drug charges and subjected violence remain.

The state party report also mentioned that for instance, legal aid is available for those who have low economic statuses in Sri Lanka. However, lawyers when assigned to cases of sex workers, are often compelled to force them to plead guilty and pay a fine instead of arguing the merits of their cases. There are also cases of sex workers made to give sexual bribes to legal professionals.

Further, there exists a category of sex workers who operate through online platforms, and they are increasingly vulnerable to various forms of online gender-based violence. The existing laws against cyber-crimes in Sri Lanka, including the Online Safety Bill and the Data Protection Bill, present significant challenges.

According to Section 364 of the Penal Code, whoever commits the offence of rape shall be punished with rigorous imprisonment for a term not less than seven years and not exceeding twenty years with a fine and shall in addition be ordered to pay compensation of an amount decided by court. In cases of sexual violence against sex workers it is reported that the police refused to write down the complaints, or further subject them to violence and attempted to trivialise and justify the act of violence<sup>22</sup>. The state has established a special unit within the Attorney General's Department to expedite the handling of cases of sexual violence. However, not documenting the cases of sexual violence against sex workers, renders the special unit unable to provide any meaningful support to them.

### Recommendations

Make disaggregated data available on violence against sex workers to inform policy making.

Comprehensive policy to address discrimination and violence against sex workers

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<sup>21</sup> Ibid; 'Almost 60% of sex workers do not practice sex work in their home town. This is a result of social stigma. This then forces them to travel to the nearest town (the most common choice made) and sometimes outside the district or province'

<sup>22</sup> "Voices of Resilience" A Needs Assessment of Female and Trans Sex Workers in Colombo and Gampaha Report Launched on 17 December 2024; Abhimani Women's Collective; [https://drive.google.com/file/d/1Ez4Av-LC5mWsjV\\_dICEdou\\_-1XL-ANUg/view](https://drive.google.com/file/d/1Ez4Av-LC5mWsjV_dICEdou_-1XL-ANUg/view)

## Article 6: Trafficking and Exploitation of Prostitution

The Sri Lankan Antitrafficking law, conflates trafficking for sexual exploitation with consensual sex work in its operations. It creates an atmosphere of tolerance of violations against sex workers under this law. Sex workers are frequently threatened with arrest or police involvement if they attempt to seek legal support or leave their job especially if they are working in a spa.

The conflation of trafficking with consensual sex work undermines their right to practise sex work and access legal protections. It is crucial to reform these laws to safeguard sex workers from abuse and exploitation. Sex workers rights groups are not consulted in any policy formulations around trafficking issues or prostitution/sex work.

Although there is an Anticorruption Act in Sri Lanka that classifies sexual bribery as a serious offense, sex workers face significant barriers when attempting to file complaints with the Bribery Commission regarding abuses by authorities. This is due to the clear discrimination and the trivialising of problems faced by sex workers. Police would often refuse to note complaints of exploitation and violence against sex workers implying that they deserve it as they are sex workers.

As mentioned under Art 2, the state has not repealed (CEDAW/C/LKA/CO/7, para. 28), CEDAW/C/LKA/CO/8, para. 27 (g) the Vagrants Ordinance and the law enforcement agencies continue to misuse it along with Brothels Ordinance to arbitrarily arrest and violate sex workers rights.

### Recommendations:

1. Law enforcement must register cases filed by sex workers. Trivialising violations against sex workers must be addressed by the State by giving directions for redress in such cases.
2. Decriminalise all aspects of voluntary adult sex work

## Article 7:

Many sex workers are unable to vote in elections for not possessing national identity cards (NIC). In other cases, they live far from their permanent registered addresses and cannot be on the voter registration list of their current place of residence. In order to change one's

permanent registered address a person has to take a 'leaving residence letter' from the *gramaniladari*' of the old residence to the *gramaniladari*' of the new residence. A sex worker from Dehiwala, who has lived there for 25 years after moving from Mathale, cannot vote because she has not changed her permanent residence from her hometown. She states, "*I cannot go back home because my family doesn't want me there as I am a sex worker, and they don't want the villagers to know. So, I remain unable to exercise my right to vote.*" This situation is common for many sex workers in Sri Lanka.

Sex workers face unique challenges in public participation, especially when they want to register NGOs or serve as board members due to the impact of criminalisation in their lives.<sup>23</sup>

Article 10:

Sri Lanka's national literacy rate stands at a high 93.3% as of 2021, with males at 94.3% and females at 92.3%. However, sex workers groups recognize that literacy rates and educational levels among sex workers are low due to intersectional discriminations like stigma, poverty, and limited opportunities arising from their socioeconomic conditions. The state lacks disaggregated data on the literacy rates of sex workers in Sri Lanka ([CEDAW/C/LKA/CO/7, para 7](#)). Additionally, there are no specific programmes aimed at improving or promoting literacy among sex workers in a country with high literacy indices. The low literacy rates within this population contribute to various socio-economic challenges for them.

Sex workers participating in a focus group discussion shared that the impact of stigma extended beyond their personal experiences; it affected the participants' families as well. Several individuals highlighted the need to conceal their work from their families, fearing that their children would face discrimination at school. As one participant mentioned, "*Our children are marginalized in schools. My children were expelled from Gunasinghapura School because of my work*"<sup>24</sup>

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<sup>23</sup> Case Study #CR19 P23, Annexure 1 <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

<sup>24</sup> "Voices of Resilience" A Needs Assessment of Female and Trans Sex Workers in Colombo and Gampaha Report Launched on 17 December 2024; Abhimani Women's Collective; [https://drive.google.com/file/d/1Ez4Av-LC5mWsjV\\_dICEdou\\_-1XL-ANUg/view](https://drive.google.com/file/d/1Ez4Av-LC5mWsjV_dICEdou_-1XL-ANUg/view)

With the National Centre for Sexual and Reproductive Health (NCSAP) now recognizing sex workers as a vulnerable group for HIV and STIs, it was hoped that access to public health education among sex workers will improve. However, our case studies show that many sex workers remain unaware of sexual and reproductive health rights, contraception, and birth control. One testimony highlights this issue: *“I went to a mental health clinic, ENT, and for skin issues. I didn’t know about AIDS, blood tests, or STDs until 2019. I learned about it from the transgender community, and they taught me how to use condoms.”*

### Recommendations

1. Take measures to address stigma and discrimination against children of sex workers in educational institution
2. Include measures to improve illiteracy and low education levels among sex workers

### Article 11

Although sex work is not illegal by law in Sri Lanka, the executive (most importantly the law enforcement agencies) does not recognise it as a legal profession, which means that affirmative action for sex workers in Sri Lanka by the state is non-existent. As a consequence of the prevailing social stigmas, criminalisation surrounding sex work along with lack of recognition as work, sex workers are denied the protections and rights afforded to other workers<sup>25</sup>. Sex workers are unable to form or join trade unions or advocate for their rights collectively. The Department of Labour has introduced an online platform for filing complaints, which can be done anonymously, supporting the enforcement of labour laws in the informal sector. However, the sex workers in the country are not in a position to use this platform for reasons mentioned above.

### Recommendations:

1. Extend social security benefits and redress mechanisms available for informal sector workers to sex workers
2. Decriminalise all aspects of sex work to enable sex workers to work freely and without fear

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<sup>25</sup> Case studies CR#3, 4 P4, P5 Annexure 1. <https://www.swasasouthasia.org/405-cedaw/192304-CEDAW---Sri-Lanka>

## Article 12

There is no special recognition of sex workers' right to physical or mental health in national policies, except for HIV and STI prevention programmes. Sex workers are seen as vectors of diseases in public health discourse<sup>26</sup>. This approach dehumanizes sex workers, who face compulsory STI testing when arrested, despite there being no such requirement in law<sup>27</sup>. Health services do not respect autonomy, privacy, confidentiality and informed consent of sex workers. Stigma and discrimination are common experiences of sex workers when they seek necessary medical care and support. Case studies show that medical professionals, such as midwives, refuse to treat pregnant sex workers solely due to the stigma surrounding their work. Additionally, sex workers face substantial barriers to obtaining health insurance due to their marginalized status.

In a study it was reported that 66% of sex workers who visited government STI clinics faced verbal abuse, including comments questioning their character and labelling them as immoral or sinful<sup>28</sup>. Case studies from sex workers organisations provide evidence of this discrimination, highlighting the difficulties sex workers face when they seek necessary medical care and support.

Most sex workers are provided condoms by STI clinics free of charge. However, other forms of contraception, such as pills and IUDs, are not freely available, especially for rural women. This is mainly due to a lack of funds in the national budget allocated to address sexual and reproductive health issues for women.

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<sup>26</sup> According to the National STD/AIDS Control Programme (NSACP), in 2023, a total of 694 new cases of HIV were reported, representing a 14% increase from 2022. The authorities quickly pointed to sex workers as contributing to the rise in these numbers. However, health professionals denied these claims, stating that no single industry or profession can be blamed for the increase in HIV cases. This incident illustrates the status that Sri Lanka's health sector assigns to sex workers: as vectors for diseases.

<sup>27</sup> It is a common practice for magistrates to order a compulsory STI screening sex workers arrested under the vagrancy and/or brothel's ordinances. 70% of the sex workers who reported as having been arrested in the study were sent for STI tests; *Status of Sex workers in Sri Lanka: A National Report 2022-23; Sex Workers and Allies South Asia- Sri Lanka Chapter; 2023.*  
<https://www.swasasouthasia.org/399-resources/192247-Status-of-Sex-Workers-in-Sri-Lanka>

<sup>28</sup> Ibid; Additionally, 35% reported receiving suggestions from clinic staff to pursue alternative professions, based on the belief that sex work is inherently bad or sinful. Furthermore, 83% of workers had never received contraceptives from a public health midwife, and 76% had never had a public health midwife visit their home.

Abortion is illegal in Sri Lanka (section 303 of the Penal Code), except when the mother's life is in danger. However, according to the Ministry of Health's post-abortion care guidelines issued in 2015, women who have undergone an abortion can seek medical treatment for complications at any government facility without the risk of prosecution. While medical professionals may refuse to treat pregnant sex workers, making this service inaccessible to them.

There is an urgent need for a lifecycle approach to health care of sex workers.

### Recommendations

1. Appropriate health policy strategy for sex workers taking a life cycle approach
2. Conduct government mandated sensitisation programmes for all hospital staff, especially midwives, to remove stigma attached to sex work and improve quality care for sex workers

### Article 13 Economic and Social Benefits

The lack of recognition of sex work and stigma around it results in sex workers being excluded from various government welfare programmes. For example, many sex workers are denied access to government allowances such as Samurdhi<sup>29</sup>, a social welfare programme aimed at supporting low-income families. It is reported<sup>30</sup>, that, 77% of sex workers had never applied for the government-provided Samurdhi benefit, primarily due to a lack of necessary documentation and the social discrimination they face. Among the few who applied and were denied, 56% reported being rejected because they did not provide sexual favours, to the officers in charge. The report noted that this practice of sexual bribery is normalized by various state officials, including police and Samurdhi officers. Additionally, 25% of sex workers were denied Samurdhi because they lacked a permanent address, while 15% cited missing documentation as the reason for rejection. Around 3% were denied due to not having a marriage certificate, either because they chose not to marry or had not registered their marriage. A sex worker from the Southern Province in Sri Lanka - *"I have applied for Samurdhi many times because my income is*

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<sup>29</sup> The Samurdhi (Prosperity) Programme was introduced in 1995 with the primary aim of reducing poverty in Sri Lanka through community-based development. By the late 1990s, it was operational in 21 of the country's 25 districts. The programme focused on poverty alleviation, and most of its resources were distributed to households in the form of food stamps, with eligibility determined by need. In 1998, the threshold for household eligibility was set at around one-third of the national poverty line.

<https://centreforpublicimpact.org/public-impact-fundamentals/the-samurdhi-programme-in-sri-lanka/>

<sup>30</sup> Status of Sex workers in Sri Lanka: A National Report 2022-23; Sex Workers and Allies South Asia- Sri Lanka Chapter; 2023. <https://www.swasouthasia.org/399-resources/192247-Status-of-Sex-Workers-in-Sri-Lanka>

*not enough to send all my children to school. But my name was removed every time, once I went to inquire about it and one of the officers at the AGA office said 'I look like I make enough money' indicating that he knows that I am a sex worker."* This is a common narrative that most sex workers face underscoring their social and economic marginalization in Sri Lanka.

### Recommendations

Comprehensive policy measures to address existing barriers sex workers access to social and economic benefits.

#### Article 14

Obtaining identity documents such as birth certificates, and national identity cards remain a challenge for many sex workers, which can severely impact their access to essential services and legal protections. Many sex workers do not possess birth certificates or National Identity Cards (NIC), which are mandatory for all adults in Sri Lanka. This lack of formal identification often stems from socioeconomic factors, such as poverty and marginalization. Additionally, the process for obtaining identity documents can be cumbersome and fraught with bureaucratic obstacles. Sex workers may face discrimination or a lack of understanding from officials when attempting to secure these documents, further complicating their situation.

Many sex workers are reluctant to seek identity documents due to the fear of police harassment or arrest. The Vagrants Ordinance is often used to detain women suspected of engaging in sex work, leading to a climate of fear that discourages them from pursuing legal identification.

Not having a birth certificate and an Identity Card meant that often the children of sex workers also did not have legal documents. This impacted their access to education. With no identity documents sex workers were not given the family card during the economic crisis, which meant they had no access to gas and kerosene. Some sex workers shared experiences of being denied health care due to lack of documents. For example, a female transgender sex worker was told that she cannot be admitted to the hospital as there was no proof of which gender, she was.

### Recommendations

1. Recognise barriers for sex workers for accessing citizenship rights, including lack of identity documents and simplify procedures

## Article 15

De facto criminalisation of sex work in Sri Lanka impacts sex workers' access to justice. Sex workers battle stigma, prejudice, systemic discrimination, impunity, corruption and marginalisation in order to access justice.

Access to services especially health care, courts and legal services and engaging with law enforcement are three main areas where sex workers' access to justice is visibly compromised. In cases of sexual violence, sex workers are not afforded the same treatment as other citizens. When sex workers report being raped or sexually assaulted, law enforcement often dismisses their complaints, trivializing the violence by suggesting that sexual violence is simply a part of their job. This dismissal perpetuates the belief that sex workers are not entitled to the same legal protections as others. In addition to this, many sex workers struggle to transition into other forms of employment or start businesses due to the stigma associated with their work. Discrimination is pervasive in many sectors, leaving sex workers with few options.

Sex workers face inequitable treatment when it comes to entering contracts, securing leases, or obtaining loans. These fundamental activities, which are essential for basic financial stability, are made considerably more difficult for them due to their social status and the stigma attached to their profession.

Sex workers are frequently denied opportunities to rent property or secure loans, often due to landlords or financial institutions refusing to engage with them. These barriers are not only economic but also psychological, as they experience humiliation and rejection in their efforts to pursue legal, financial, or social security for themselves and their families.

Further compounding these issues, sex workers are treated differently when seeking justice, particularly when interacting with law enforcement and the judicial system. They often find themselves at a disadvantage, both in terms of the legal processes they face and the treatment they receive from authorities. In many cases, sex workers are subjected to harassment, intimidation, and even violence from police officers. The challenges faced by them in obtaining

justice are deepened by the difficulty they face in accessing legal aid<sup>31</sup>. Sex workers are unable to afford legal representation or even basic legal consultations. As a result, many simply plead guilty to charges, including those under the Vagrants Ordinance, in order to avoid prolonged legal battles or additional fines; A sex worker said *“If I don’t work tonight, I will have to move out of my boarding house with my child and that is not an option, I simply plead guilty and pay the fine”*.

Denial of access to justice translates to further marginalization, discrimination and violence in all sectors sex workers interact with, such as law enforcement authorities, healthcare sector, social services and society in general.

#### Article 16

In Sri Lanka, discrimination against sex workers significantly impacts their rights in marriage and divorce, particularly due to criminal records and societal stigma. Although sex work is not explicitly criminalized, laws such as the Vagrants Ordinance can lead to arrests for being "idle and disorderly." Wrongful arrest under Anti-trafficking law leaves a person with criminal records. This criminalization, combined with the stigma associated with sex work, can hinder sex workers' ability to find marriage partners, lead to rejection from family or community, and put them at a disadvantage in divorce proceedings. Criminal records may also negatively influence legal decisions, such as custody arrangements or property claims, further marginalizing the sex workers.

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<sup>31</sup> 99% of the workers have not received free legal services. Many of them were not aware that free legal services exist. *Status of Sex workers in Sri Lanka: A National Report 2022-23; Sex Workers and Allies South Asia- Sri Lanka Chapter; 2023*