

Hon'ble Justice Altamus Kabir
Chairperson
National Legal Services Authority

21 August 2012

Hon'ble Justice Kabir,

We would like to draw to your attention to continued rights violations and violence faced by women in sex work across India.

Today numerous commitments exist internationally and nationally calling on States to exercise “*due diligence in preventing, investigating and punishing acts of violence against women*” and providing women “*access to mechanisms of justice*” and *due redress in accordance with national legislations*.¹² The Hon'ble Supreme Court of India has upheld the rights of women observing that Article 21 grants them a right to *live with dignity*³.

Despite these commitments, women in sex work continue to be stigmatized, discriminated and denied access to these rights. Violence by communities fuelled by stigma, against male and transgender sex workers, denies them the fundamental right to life and dignity. Sex workers in India are organizing to fight for their right to a life free of discrimination that includes

- Refusal of access to services by health authorities, for municipal benefits, gram panchayat schemes, free ship for children's education among others.
- Extortion by brothel owners, clients, police, money lenders
- Forcible rescue of adult women who opt for sex work as work
- Traffickers who exploit them economically and emotionally
- Constant physical, sexual or psychological harm.

Denial of rights is linked to the perception of sex workers as not being 'normal citizens' and has led to routine and large scale violations of human and fundamental rights like right to life, equality, right to free movement, right to livelihood, right to reside in a place of choice and right to equal protection of laws. Today, stigmatization of sex workers permeates the criminal-justice machinery across India resulting in a lack of protection under the law.

- a. Police routinely abuse sex workers, illegally detain and torture them. Their rights when being arrested are routinely violated in blatant violation of the guidelines laid down by the National Human Rights Commission on arrest and custody.
- b. When sex workers approach the police when they are beaten or abused by private parties, their right to remedies is routinely denied by the police who refuse to lodge First Information Reports or investigate the acts of violence.

¹ Declaration on Elimination of Violence Against Women, 1993, UN General Assembly

² The Political Declaration made by States at the UN General Assembly further commit to strengthening ‘*legal, policy, administrative and other measures for the promotion and protection of women's full enjoyment of human rights*’ and the ‘*elimination of all forms of discrimination including violence against women*’. The Declaration also calls on States to protect the rights of specific vulnerable populations and ensure an environment that strengthens efforts against stigma and discrimination.

³ Budhadev Karmaskar v State of Bengal, Cr Ap No. 135 of 2012

- c. Police raids conducted under the Immoral Trafficking Prevention Act are an exercise of abuse and violence against sex workers rather than arresting individuals involved in trafficking.

The process of 'rescue' of sex workers involves beating, dragging by the hair, abuse, looting by the law enforcement personnel conducting the raid. A social welfare measure intended to treat sex workers as victims/survivor, becomes an exercise in uprooting of sex workers, extreme violence and detention. It is rare to find the arrest of traffickers in such raids. These arrested or detained sex workers; far from being treated as victim and survivors, are treated as criminals and are placed in detention homes; for indefinite periods; to be reformed.

- d. Magistrates routinely remand sex workers to custody to be taken back to their native villages without giving them access to the due process of the law and an opportunity to be heard.
- e. There have been numerous instances where, despite sex workers residing for many years in a place, possessing requisite legal documents like ration cards, voter I-D, Electricity bills; their houses have been razed and they have been thrown out⁴ and their rights as citizens of India have been violated.

We enclose a note drawing attention to the specific instances of the violence and rights violations⁵ that sex workers face in complete disregard to their rights duly guaranteed by the Constitution of India and upheld by the Hon'ble Court.

We seek your immediate intervention to

- Halt the abuse, forced rescues and rights violations of sex workers
- Pass directives to ensure that any action taken by the law enforcement against women in sex work is in pursuance to and in strict compliance with the due process established by law
- Take any further steps that ensure their enjoyment of the fundamental rights to life, liberty, dignity and equality guaranteed and enshrined in the Constitution of India.

Thanking You

Enclosure:

Note on specific instances of Violence and Rights violations faced by women in Sex work from Ahmednagar, Gautamnagar in Chandrapur, Lohara in Yeotmal, Pune and Wani (Yavatmal); Maharashtra

⁴ Baina, June 2004, Goa

⁵ Details of five incidents from Ahmednagar, Gautamnagar in Chandrapur, Lohara in Yeotmal, Pune and Wani near Yavatmal enclosed as a note