

Aastha Parivaar

# RECOGNISING AND EMPOWERING MIGRANT SEX WORKERS AS WORKERS TO GAIN LEGAL PROTECTION AND ACCESS TO HEALTH

INDIA

## WOMEN MIGRANT WORKERS IN INDIA

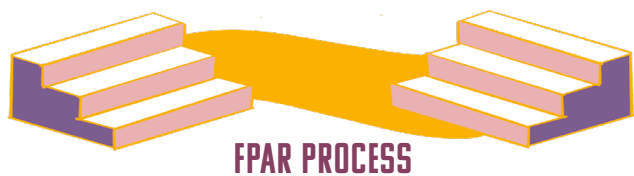
An estimated 2.8 million female sex workers across India comprise service providers voluntarily, coerced and under-age<sup>1</sup>. The involvement of migrants in the local sex trade is not limited to those classified as trafficked or smuggled: many new landed immigrants – women primarily – turn to sex work due to the lack of viable economic alternatives, often worsened by family breakdown. According to the Suppression of Immoral Traffic in Women and Girls Act (1956), amended in 1986 as The Immoral Traffic Prevention Act, sex work is not a crime in India as long as they conduct it in private spaces. However, multitudes of activities associated with it, such as pimping and managing brothels, are illegal. Consequently, it fuels multiple human



rights violations toward sex workers, including a high rate of violence in the sex industry, child sex workers, lack of access to health care and a high rate of HIV/AIDS infection. Moreover, the policies around rescue and rehabilitation for sex workers are based on the premise that sex work is immoral, which is improbable to promote sex workers' well-being effectively. In addition, migrant sex workers remain primarily outside of India's legal, medical and social services structures. Poor language skills, undocumented status, limited understanding of laws and regulations as well as the absence of support networks put migrant sex workers at a greater risk of abuse and exploitation.

<sup>1</sup> Government of India, Ministry of Women and Child Development. (2014). Resettlement Scheme for Sex Workers. Press Information Bureau. <https://pib.gov.in/newsite/PrintRelease.aspx?relid=103218>





Aastha Parivaar conducted this Migration Feminist Participatory Action Research (FPAR) to examine the cause and consequences of human rights violations experienced by migrant sex workers and to organise them to demand legal protection and health care. The data was collected through focus group discussions, interviews and observation between March 2020 and December 2020 in Mumbai and Thane districts, Maharashtra state, India. Most of the participants were survivors of human trafficking forced to work as sex workers. They are originally from Nepal, Bangladesh and other states in India. They struggle with illiteracy, lower social status, lack of economic opportunities and are susceptible to HIV/AIDS and sexually transmitted infections.



### **Discrimination and stigma of sex work and sex workers' status:**

The majority of the migrant sex workers do not have identity documents and ration cards, which deny them access to essential services, such as food, housing, social protection, education, welfare and other government benefits. Reintegration and return to their countries or cities of origin is not always an option. One case has been documented in the FPAR, Rama Thapa, a migrant sex worker from Nepal, whose family cut ties with her after knowing she is HIV/AIDS positive. Even she was sick, unable to work, bear the enormous debt and isolated under lockdown, she did not feel that she could go back to her home country because of the stigma for sex workers.

### **High risk of health problems and poor living condition:**

Sex workers are far more likely to be infected with HIV/AIDS and other types of sexually transmitted infections (STI). In this FPAR, around 20 per cent of the respondents had STI and required regular medical treatment. Besides that, 60 per cent of the respondents had back and joint pains, while 40 per cent suffered from frequent body aches. Pre-existing health conditions also make COVID-19 more dangerous for sex workers as the disease might cause severe symptoms, infection and even death. In addition, poor and cramped living conditions can potentially increase the risk of COVID-19 infection. Most of the sex workers and their families in Kamathipura, Mumbai lived in a crowded space - with six to eight people living in a 10x12 feet confined room. Often, 50 people need to share a shared bathroom without running water facilities.

### **Limited access to public health services:**

Most migrant sex workers are referred to a private clinic as they do not have the Aadhar Card, a citizen

identity document showing eligibility for public health services. The private clinic is a preferred choice for migrant sex workers because these doctors usually ask fewer questions related to the patient's job, family conditions and migration status. Despite the fact that private services are preferable, the majority of sex workers still rely on traditional household remedies for pain relief and other medical conditions because they cannot afford the medical cost. For HIV/AIDS positive sex workers, they usually go to the government hospital for antiretroviral therapy (ART). However, due to the COVID travel restrictions, these workers lost access to ART treatment and medicines from government hospitals. Some sex workers could not afford the transportation cost to the ART clinic. Missing their regular dose of ART will increase their HIV viral load and cause health conditions to become progressively worse.



### **“Slave-like” working conditions:**

A safe working environment through standard labour protection measures continues to be denied for sex workers. Migrant sex workers are excluded from legal protections and endure hazardous working conditions such as forced labour, violence, excessive working hours, policing and unsafe sex. One sex worker mentioned an experience in which she refused to take more clients; and as a result, she was physically abused by the brothel owner, and she had no choice but to continue working. Human rights violations are seldom reported as sex workers run the risk of being criminalised.



### **Debt bondage:**

Due to a low and unstable income, the majority of sex workers depend on loans to provide for their needs. They have to take on loans with high interest rates from local money lenders or sell their jewellery to feed their children and families. To repay the debts, the sex workers have no choice but to work more, take more clients and at times compromise on safe sex. The constant pressure to find income sources to feed their families, pay the

rent and repay loans results in a severe impact on their mental health.



### **Deepening Poverty and starvation after COVID-19:**

Due to the COVID-19 Pandemic induced lockdown and restrictions, the vulnerabilities and marginalisation of migrant sex workers have increased as they lost their income. With bars and brothels closing, sex workers could not go there to provide services, and the clients could not come to them. Without any income, migrant sex workers experience a shortage of daily food and other basic needs, leading them to take on more debt to survive. The seriousness of the problem is reflected by one of the interviewees, “We sex workers are ready to risk our lives by throwing social distancing to the wind and risk police beating. Does it show how desperate we are for food?” There were also sex workers who were physically unwell due to starvation; they had no money for food and survived on one meal per day.



### **WOMEN'S ACTIONS THROUGH FPAR**

Through FPAR, Aastha Paarivar has organised training on migrant women's rights, right to health, including access to health care centres, cost-effective treatment and other health issues related to the vulnerabilities of sex workers. In terms of advocacy, Aastha Paarivar has been part of the movement in advocating for the rights of migrant sex workers with the All India Network of Sex Workers, an umbrella organisation working for Sex workers' rights across India. One attainment from the movement is that the National Human Rights Commission (NHRC) recognised sex workers as informal workers. NHRC requested the Ministries of Women and Child Development, Labour, Social Justice, Health and Consumer Affairs in all states and Union Territories to recognise sex workers as informal workers and register them to avail the benefits of a worker.



## RECOMMENDATIONS

### The Government of India should:

- Fully decriminalise sex work and related activities and take effective legal measures to ensure safe working conditions for migrant sex workers.
- Develop efficient, accessible legal and redress mechanisms at all levels to ensure migrant sex workers have access to justice.
- Consistently put human rights principles into practice and ensure the migrant sex workers enjoy equal rights as workers.
- Implement the Supreme Court recommendations to issue identity documents and ration cards to migrant sex workers at the national, state, district and sub-district levels.
- Provide education and decent job opportunities for girls and women, and develop effective measures to tackle and prevent human trafficking.



### About Aastha Parivaar

Aastha Parivaar is an organisation led and run by sex workers, dedicated to empowering sex workers communities to live with self-respect, dignity and pride, free from the discrimination and stigmatisation that often accompanies their profession. Aastha Parivaar was officially registered in 2009, since then Aastha Parivaar has become one of the largest umbrella organisations representing the various sex worker communities in Mumbai, Pune and Thane, including street-based, brothel-based, home-based, male and Hijra/transgender sex workers.

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### About APWLD

The Asia Pacific Forum on Women, Law and Development (APWLD) is the region's leading network of feminist organisations and individual activists. For 35 years, we have been carrying out advocacy, activism and movement-building to advance women's human rights and Development Justice. This FPAR is part of APWLD's Migration Programme. APWLD worked with and supported seven partner organisations from six countries to conduct Migration FPAR in Asia and the Pacific between 2019 and 2021.

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