

Written submission on the equal and inclusive representation of women in decision-making systems

1. This written submission is made on behalf of the Sex Workers Inclusive Feminist Alliance (SWIFA)¹ to the Committee on the Elimination of All Forms of Discrimination Against Women (the Committee), ahead of the half-day of general discussion on the equal and inclusive representation of women in decision-making systems.²
2. This submission provides guidance to the Committee on the existing barriers to equal and inclusive representation of cis and trans women and non-binary sex workers in decision-making systems, the reasons for why equal and inclusive representation of sex workers is important, and recommendations for how equal and inclusive representation can be best achieved, which we hope will inform the Committee in the elaboration of a draft general recommendation.

I. Existing barriers to equal and inclusive representation of sex workers in decision-making systems

3. Discrimination based on gender, social and economic situation and migrant status, among other grounds, is a barrier for the participation of women in the political, social, economic and cultural life at both the national and the international levels. The criminalisation of consensual-sex among adults, including in the context of sex work, violates the human rights of sex workers, including their rights to freedom of expression, peaceful assembly and association, which are crucial to ensure participation in decision-making systems and the conduct of public life.
4. The widespread criminalisation of sex work remains one of the greatest barriers to sex workers' participation in decision-making systems due to the risk that such public participation heightens their vulnerability to legal repercussions, violence, stigma, and discrimination. Sex workers who have convictions may additionally be barred from holding elected offices or engaging in other formal political processes.³
5. This barrier is compounded by the fact that Member States continue to fail to recognise sex workers as experts in their own lives and work, and instead put in place requirements for formal education and qualifications which exclude sex workers from participating in decision-making bodies and processes. Sex work is also often considered a “controversial” topic in many societies, meaning that sex work can be de-prioritised as a policy issue for decision makers.
6. Another major bottleneck that prevents sex worker groups from participating in decision-making systems is their systemic exclusion from funding. Despite the growing number of organisations led by sex workers globally, the availability of funding has remained extremely limited, and financing

¹ The Alliance is led by the Global Network of Sex Work Projects and includes Amnesty International - International Secretariat, CREA, FEMNET, Global Alliance Against Traffic in Women (GAATW, International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific), and Women's Global Network for Reproductive Rights (WGNRR),

² <https://www.ohchr.org/en/events/events/2023/half-day-general-discussion-equal-and-inclusive-representation-women-decision>

³ Global Network of Sex Work Projects, “Sex Workers’ Participation in Public Life,” available at: https://www.nswp.org/sites/default/files/briefing_note_sex_workers_participation_in_public_life_final.pdf

from embassies, bilateral aid programmes, multilateral funding sources, and governments is marginal.⁴

7. In addition, contrary to their obligations under Article 5 of CEDAW, Member States have failed to eliminate the prejudices towards sex workers that are rooted in gender-based stereotypes, which are used to belittle the views and experiences of sex workers, particularly those whose experiences are not in line with prohibitionist narratives. Stereotypes about how women should behave and how they should express their sexuality continue to be used to portray sex workers as deviant and therefore undeserving of inclusion in public life and decision-making processes. Sex workers have even been vilified by members of the anti-trafficking community, despite the vital role sex workers have played in identifying victims of trafficking. For example, research carried out by the Global Alliance against Traffic in Women (GAATW) in 2018 found that whilst the contribution of sex worker organisations to anti-trafficking work was recognised by individuals within police forces in Spain and South Africa, the organisations were either not allowed to join their national anti-trafficking task forces or NGO networks, or had to withdraw due to hostility.⁵
8. These stereotypes have also been used to dismiss the views of sex workers outright. In France, during the development of a law to criminalise the clients of sex workers, members of parliament admitted that whilst they had invited sex workers to share their views, “*the MPs already knew that they would not be convincing*”.⁶ These stereotypes often intersect with racist and other forms of discrimination. In the same example in France, members of parliament refused to consult with Chinese sex workers because “*they are under the control of violent mafias,*” thereby dismissing the views of an entire racial group.⁷
9. In the context of the Committee’s own decision-making processes, we were deeply concerned by the negotiation process for the CEDAW Committee General Recommendation (GR) on trafficking in women and girls in the context of global migration (2020). Despite a significant number of comprehensive and evidence-based recommendations and submissions to the Committee most significantly from many sex worker-led organisations, on the effects of misleading anti-trafficking and anti-sex work policies, these were ultimately ignored in favour of ideological concerns that lacked any evidential basis. By disregarding the voices and lived experiences of sex workers, the CEDAW Committee put forward a biased position rooted in ‘End Demand’ ideology. In a time of unprecedented challenges in the context of global migration, the need for guidance which reflects the voices and lived experiences of affected communities has never been clearer. By dismissing the voices and contributions of sex workers and their allies, as well as the wide body of evidence demonstrating the harms of ‘End Demand’ approaches, the CEDAW Committee undermined its own mandate of protecting all women and girls.

⁴ Sex Workers Rights Advocacy Network, “Nothing About Us Without Us!” 2019, available at: https://www.swannet.org/files/swannet/NothingAboutUsWithoutUs_ENG_web.pdf

⁵ GAATW, Sex Workers Organising for Change: Self-representation, Community Mobilisation, and Working Conditions, GAATW, Bangkok, 2018, pp 27 and 257

⁶ Calderaro and C Giametta, “‘The Problem of Prostitution’: Repressive policies in the name of migration control, public order, and women’s rights in France”, Anti-Trafficking Review, issue 12, 2019, pp. 155-171

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10. Finally, due to their marginalisation, many sex workers are also human rights defenders, and therefore face many of the same barriers to representation as other human rights defenders. Individual sex workers who attempt to participate in decision-making processes can be targeted by regressive actors and subjected to hate speech, online abuse and even physical violence.⁸

II. Why equal and inclusive representation matters

11. The right of individuals and groups to participate in decision-making processes, which may affect their development, lives, rights, and safety, must be an integral component of any policy development or law-making process. This principle was mainstreamed into international law by the disability rights movement in the 1990s, which advocated for “nothing about us without us.” This campaign for meaningful involvement is now a unifying call for people and movements around the world who are fighting for the right to participate in policy-making, research, and civil society, including sex workers.⁹
12. Without equal and inclusive participation of sex workers, even those authorities with the best of intentions will continue to enact laws and policies that harm, rather than protect, women engaged in sex work. For example, many European states have adopted policies which criminalise the purchase, but not the sale, of sexual services, ostensibly as an attempt to criminalise clients but “protect” sex workers. The result however has had quite the opposite effect. In a report published by the London School of Economics in December 2022, following interviews with 210 sex workers, police, social workers, and policy makers in Sweden, Norway and Finland, it was found that this model pushes sex workers into precarious or dangerous situations as they try to protect their clients from prosecution. Similarly, the criminalisation of “pimping” and “brothel-keeping” has led to a dire lack of housing and safe spaces for sex workers.¹⁰
13. Equal and inclusive participation is made all the more necessary by the fact that there is currently very little regional or global data available to decision makers, predominantly due to the criminalisation, stigmatisation and marginalisation faced by sex workers.¹¹ Where sex workers are excluded from the development of policies and laws, decisions will continue to be based on unreliable evidence and/or erroneous stereotypes. For example, in Ireland, the decision to criminalise the purchase of sex in 2017 was in part based on estimates provided in a 2009 report on “sex trafficking and prostitution” funded by the Religious Sisters of Charity, a Roman Catholic congregation. This is despite the fact that these estimates, including a questionable conclusion that 97% of sex workers were migrant women, have been heavily criticised by academics, lawyers and workers within the sector.¹²
14. The lack of representation of sex workers in decision-making structures has also fuelled negative gender stereotypes and stigma towards sex workers within state institutions and in society at large. The failure to take account of the true lived experiences of sex workers has led to the conflation in

⁸ The Guardian, “Sex workers fighting for human rights among worlds’ most at-risk activists,” 12 August 2021

⁹ Sex Workers Rights Advocacy Network, “Nothing About Us Without Us!” 2019, available at:

https://www.swannet.org/files/swannet/NothingAboutUsWithoutUs_ENG_web.pdf

¹⁰ Niina Vuilajarvi, “Criminalising the Sex Buyer: Experiences from the Nordic Region,” June 2022, London School of Economics, Centre for Women, Peace and Security

¹¹ Amnesty International, “We Live Within a Violent System: Structural Violence against Sex Workers in Ireland,” 2022

¹² Amnesty International, “We Live Within a Violent System: Structural Violence against Sex Workers in Ireland,” 2022

many parts of the world between sex work and trafficking for sexual exploitation. This is dangerous for several reasons. First, it subjects workers who are engaged in sex work to demeaning and often violent police raids. For example, in India, the failure by law enforcement agencies to distinguish between sex workers and those who have been trafficked has meant sex workers are being subjected to police raids at their place of work, before being either deported or detained at “rehabilitation” centres where they are kept against their will for many months. Second, it diverts resources and support away from actual trafficked persons, and makes it harder for sex workers to cooperate with law enforcement authorities in investigations into genuine situations of trafficking.

15. With respect to initiatives to prevent and address human trafficking, GAATW has documented how sex workers and sex worker rights organisations are often at the forefront of combating exploitation and trafficking in the sex industry. As insiders, they are often best positioned to identify underage people or people coerced and controlled by criminals in the industry; in many cases, sex workers and sex worker organisations are the first to offer advice resources to victims of trafficking. Yet, as noted above, this reality is not recognised by many mainstream anti-trafficking actors, and sex workers remain excluded from anti-trafficking decision-making systems. As a result, the anti-trafficking community has shut out a crucial ally that can dramatically improve efforts to prevent trafficking and identify cases of trafficking in the sex industry.

III. Recommendations

16. In light of the above, SWIFA wishes to make the following recommendations to the Committee:
 - i. Member States and the United Nations must ensure that sex workers are consulted and can meaningfully participate, without discrimination on any ground, in the development of any relevant policy, law or regulatory framework that may have direct or indirect impact on their lives and livelihoods at all levels, including local, national, regional and international levels. This includes the genuine involvement of sex workers and sex work organisations, as well as of other marginalised individuals and groups facing discrimination on the basis of, for example, sexual orientation, gender, gender identity, race, ethnicity, economic and social situation, health and migrant status, in decision making processes at multiple levels, including at the UN-level.
 - ii. All consultation processes with sex workers should be genuine, independent and free from stereotyping. Questions and surveys put to sex workers should refrain from using leading questions or questions that are premised on harmful stereotypes about people who are engaged in sex work.
 - iii. To be effective, sex workers should be given the option of participating in decision making anonymously, in addition to other measures required to protect them from criminalisation, retaliation, or harm.
 - iv. When organising convenings in countries with restrictive borders (particularly in the Global North), the United Nations and Member States should schedule these events sufficiently in advance so as to allow for enough time for sex workers who wish to participate to apply for and obtain visas.
 - v. As an informal work sector, those engaged in sex work may often be in a situation of economic precarity. Member States should therefore ensure financial and other support (such as for



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- obtaining a visa) for sex workers to participate in meetings, conferences, and other fora for decision and policy making. Member states should also provide the opportunity for remote/hybrid participation for workers who cannot travel.
- vi. Member States must decriminalise all aspects of sex work to remove the stigma and other negative effects of criminalisation on sex workers' ability to participate meaningfully in decision-making systems and to enjoy their rights to freedom of expression, association and peaceful assembly.