



GLOBAL INITIATIVES
FOR HUMAN RIGHTS
A **HEARTLAND ALLIANCE** PROGRAM

REPORT TO BE SUBMITTED TO

Committee for the Elimination of Discrimination against Women

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Introduction

Civil society organizations **Red de Trabajadoras Sexuales de Latinoamérica y el Caribe (RedTraSex)**, **Akahatá - Equipo de Trabajo en Sexualidades y Géneros**, and **Heartland Alliance for Human Needs & Human Rights** submit this document to complement information provided by the State and to bring to light the human rights violations daily affecting sex workers, that is, women of legal age who have willingly decided to engage in sex work, across Argentina.

RedTraSex was created in 1997 when women sex workers from across the region met in Costa Rica. We began to know each other and realized that in spite of living in different countries we shared similar realities, had the same needs, suffered the same injustices and fought for the same goals. Now, 19 years later, RedTraSex brings together national women sex workers' organizations (NWSWOs) from 14 countries in Latin America and the Caribbean¹. Our goal is to see the human rights of women sex workers recognized and respected in the region. We particularly advocate for our right to work, without putting other fundamental rights aside, such as equality between men and women, and we fight for non-discrimination, freedom, and sexual and reproductive health.

Everywhere in Latin America governments jeopardize our rights and our life; we suffer violence by State action and inaction. We want to be treated on equal conditions with the rest of the population. We want to be recognized as workers and be able to contribute to building more fair and egalitarian societies.

This report aims to inform the Committee about the current human rights situation for women sex workers on the basis of information collected by AMMAR - Asociación de Mujeres Meretrices de Argentina, representing women sex workers in the country.

¹ RedTraSex comprises of the following organizations: Asociación de Mujeres Meretrices de Argentina (AMMAR, Argentina), Tikkum Olam (Belize) Organización Nacional de Activistas por la Emancipación de la Mujer (ONAEM, Bolivia), Fundación Margen de Apoyo y Promoción de la Mujer (Chile), Asociación de Mujeres Buscando Libertad (ASMUBULI, Colombia), Asociación de Trabajadoras Sexuales La Sala (Costa Rica), Movimiento de Mujeres Unidas (MODEMU, Dominican Republic), Movimiento Orquídeas del Mar (El Salvador), Organización Mujeres en Superación (OMES, Guatemala), Red Nacional de trabajadoras Sexuales de Nicaragua, Red Nacional de Trabajadoras Sexuales de Honduras, Mujeres con Dignidad y Derechos (Panama), Unidas en la Esperanza (UNES, Paraguay) and Red Nacional de Trabajadoras Sexuales de Perú,.

1- SUPRESSING TRAFFIC IN WOMEN AND EXPLOITATION OF PROSTITUTION OF WOMEN (Article 6); DISCRIMINATION AGAINST WOMEN (Articles 1-3); Questions 9, 10 and 11 (List of Issues)

In Argentina, sex workers still do not have a law regulating their trade, and the rights of those engaged in sex work are neither recognized nor guaranteed. In July 2013, AMMAR submitted a bill to regulate sex work to the National Parliament but it was not discussed at the level of commissions and lost Parliamentary status two years later.

This lack of regulation has direct, negative and current consequences for our population: women sex workers lack equal protection before the law when compared to all other workers and this also creates confusion between autonomous sex work and criminal activities such as trafficking in persons that result in ongoing human rights violations against women sex workers.

The confusion between trafficking in persons for sexual exploitation and sex work is present across the political spectrum and particularly in the media, and it has led not only to wrong opinions but also to legal instruments that while being useless in putting an end to the scourge of trafficking actually encourage stigmatization of women sex workers. This confusion has negative consequences. It does NOT contribute to our struggle to see our human rights respected, it does NOT help fight trafficking, and it does NOT dismantle the logic of exploitation or current networks of impunity. There is a need to differentiate between:

- TRAFFICKING OF PERSONS is *“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability”*² to force a person to provide services without her/his consent. Trafficking of persons for sexual exploitation is just one of the expressions of this crime. The distinctive element of trafficking is **being held against one's will** or having one's personal documents **removed**, being **subjected to abuse or threats** against one's life, being **locked-up** and **forced** to provide services, without one's expressed **consent** and **against one's will**.
- LABOR EXPLOITATION refers to the conditions in which labor is performed and not only for sexual purposes. There is labour exploitation in different jobs, particularly in construction work, and the garment and shoe industries. Labor exploitation means paying wages that are below the legal or minimum required, precarious conditions of work, lack of basic facilities in the workplace, working more hours than the maximum allowed by the law, wages that do not include paid holidays or sick leave, to the extreme of the labor performed in conditions amounting to slavery. Because it falls in a legal void (not being forbidden but also not being ruled by laws and norms), sex work is done in "clandestine" conditions and this enables labor exploitation. In our situation, procurers or owners of hotels, cabarets, saunas, porno movie houses, whisky bars, motels, nightclubs or the apartments where we provide our services, demand that we work longer hours or under conditions that are harmful to our health. But even in those situations, we are not "trafficked" women, as we are doing sex work because we decided to do it of our own free will.
- **SEX WORK is the provision of sexual services for money, in which all parties consent out of their free will and decision. Women sex workers are adults who have decided to do this work in order to sustain our families and/or ourselves. It is clear that women sex workers are not trafficked, nor in need of "rescue". Every intrusion into our workplaces damages the agreements we have with our clients or with the owners of those spaces and often results in our inability to make any income on that day.**

² Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. UN. 2003. Article 3.a.

In Argentina, sex work is a licit occupation but its lack of regulation hinders its free exercise. It also happens that most sex workers are women, migrants and of low income; the confusion detailed below only increases discrimination, stigma and violence against us³.

A series of laws that have been issued supposedly to fight against trafficking of persons are being enforced in an abusive manner by security forces and other offices of the Executive Power violating women sex workers' rights. AMMAR has systematically exposed the fact that raids in the homes of women sex workers who autonomously (without procurers) and willingly engage in their occupation are a daily occurrence in different provinces and in the capital city⁴.

Often security forces and regulation bodies of the local Executive Power break into the homes of women sex workers, subject them to violence and arrest them invoking misdemeanor norms. They also break into those homes without a judicial order and force women sex workers to join rescue programs, paying a deaf ear to those who demand to be able to engage in sex work of their own will. If they refuse to join those programs, they are abused⁵. On March 31, 2016, a woman sex worker who engages in her occupation out of an apartment she rents together with another woman sex worker in downtown Buenos Aires reported to us that: *"In the last three months we had four raids in our apartment, where we live and work. We were mistreated in all cases: pushed, shouted at, treated as if we were criminals, given no explanation. They turned the whole place upside down, looking who knows for what. Once they came without a court order, so I did not let them in, but the police officer showed me his gun and said I could not close the door, I had to keep it open and nobody could go in or out until the order came. We spent six hours with the door open until the order came and then the procedure took another three hours. All raids end with the house upside down, everything in a mess. Twice they took some of our money and on every occasion they took the condoms we use to work. All the time, while some are searching, others are pointing at us with their guns. They have done several raids already in our apartment, they know that the only people there are me, my friend and two other women who come and go - we are all of legal age, work autonomously (without procurers), but still they keep coming and we always have to go through all this..."*

Lastly, it is worth mentioning that in Argentina, different State bodies and organizations collect data about women who are victims of violence and femicide, a number that raises concern because it is growing every month. Women sex workers are not strangers to this reality and we suffer violence on a daily basis. Often, the fact of a woman being a sex worker renders this kind of daily violence invisible to those collecting this data. This is why AMMAR has started its own systematization: the Women Sex Workers' Femicides Registry⁶.

This Registry shows that between 1996 and 2016, 44 women sex workers were registered as murdered. But this year, the number has considerably increased: only in the first two months of the year 2016, 3 women sex workers were murdered in the provinces of Neuquen (January 24), Santa Fe (February 6), and Mendoza (February 15). On the first two cases, nobody has yet been accused or arrested.

2- MARRIAGE AND FAMILY LIFE (Article 6); DISCRIMINATION AGAINST WOMEN (Articles 1-3)

³ As AMMAR says, the confusion between trafficking and sex work leads to undue arrests of sex workers who, when being migrants, are systematically victimized against their will. This increases the social stigma and discrimination they already face. One example is: <http://www.ammар.org.ar/Mendoza-Federal-miente-no-hay>.

⁴ <http://www.ammар.org.ar/AMMAR-diserto-sobre-regulacion-del.html>

⁵ https://ammар.org.ar/IMG/article_PDF/Violencia-Institucional-hacia_a589.pdf

⁶ AMMAR's registry is available at: <http://www.ammар.org.ar/El-91-de-Femicidios-de.html>

When women sex workers need to resort to the judicial system, we are discriminated against by public officials because of our occupation. Far from being treated with impartiality, we face unjustified distinctions, stigma and discrimination by those in-charge of enforcing and interpreting the law. Very often in Family Courts the judicial system discriminates against us by making us lose custody of our children or even reducing to the minimum our visitation rights, only because our occupation is considered an aggravating circumstance. This is very serious because it affects not only our rights but also those of our children.

An emblematic case is that of a woman whom a judge has deprived of custody of her daughter in the city of Cañuelas, Buenos Aires province, only because she is a sex worker⁷. The judge's decision has been appealed and her discriminatory behaviour has been reported to *Consejo de la Magistratura*, the State body that oversees the functioning of the judicial system.

BASIS FOR OUR RECOMMENDATIONS

In 1998, the International Labour Organization (ILO) started a series of actions and recommendations based on research done by an expert recommending that the sex industry be included in governments' official account not only because it makes huge contributions to regional economies but, particularly, as the only way to improve the situation of those employed in the industry.

In 2009, UNAIDS stated that: *"In many countries laws, policies, discriminatory practices, and stigmatising social attitudes drive sex work underground, impeding efforts to reach sex workers and their clients with HIV prevention, treatment, care and support programmes. ... Inadequate service access is often compounded by abuse from law enforcement officers"*. In the same document, it also addresses the dangers of linking sex work to illicit activities: *"The persistent confusion and conflation between trafficking in persons and sex work leads to laws and interventions that negatively impact sex workers, and at the same time undermine efforts to stop trafficking"*⁸.

In 2012, the United Nations Development Programme's (UNDP) Global Commission on HIV and the Law issued a report stating that: *"Decriminalisation is the first step towards better working conditions - and with them, less HIV risk"*⁹. The report also says, *"Criminalisation, in collusion with social stigma makes sex workers' lives more unstable, less safe and far riskier in terms of HIV. There is no legal protection from discrimination and abuse where sex work is criminalised"*.¹⁰

In August 2015, Amnesty International issued a resolution supporting decriminalisation of sex work with a clear purpose: to protect the rights of those voluntarily engaging in this work. Amnesty states that the policy takes into account *"The starting point of preventing and redressing human rights violations against sex workers and in particular*

⁷ <http://ammar.org.ar/Trabajadora-sexual-lucha-por-605.html>

⁸ Joint United Nations Programme on HIV/AIDS (UNAIDS): UNAIDS Guidance Note on HIV and Sex Work, 2009-2012. p.7 and p.41. http://www.unaids.org/sites/default/files/sub_landing/files/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf.

⁹ Global Commission on HIV and the Law: Risk, Rights and Health. United Nations Development Programme (UNDP), 2012, p. 40. <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/hiv-and-the-law--risks--rights---health.html>.

¹⁰ Global Commission on HIV and the Law, op. cit. p. 36-37.

*the need for states to not only review and repeal laws that make sex workers vulnerable to human rights violations, but also refrain from enacting such laws".*¹¹

We think there is a need for Argentina to pass a law regulating sex work in order to reduce stigma and discrimination faced by all sex workers on a daily basis. Also, such a law will guarantee a minimum set of rights consistent with those recognized for the entire population at the national and international levels.

We consider that such a law must be drafted with wide and direct participation of sex workers organizations in order to guarantee an adequate reading of our realities and the specificities of sex work in Argentina.

RECOMMENDATIONS

On the basis of what has been discussed in the contribution and the situations described, we request the Committee on the Elimination of All Forms of Discrimination Against Women to present the following recommendations to Argentina during its review:

- a) Clearly differentiate sex work from trafficking and sexual exploitation, in laws and public policies.
- b) Stop using anti-trafficking policies to conduct arbitrary arrests or procedures like raids that end in the closing down of homes where sex workers live and work.
- c) Develop efficient public policies to prevent, combat and punish discrimination and all forms of violence against sex workers.
- d) Establish and strengthen mechanisms for follow-up and monitoring cases of discrimination and/or violence against sex workers
- e) Establish effective protection mechanisms against security forces and public institutions engaging in violence and discrimination against sex workers.
- f) Promote the recognition, respect and protection of sex workers' rights, enabling us to engage in our occupation in regulated, decent and safe conditions.
- g) Promote the developing of norms regulating sex work without criminalizing it and guaranteeing the best possible conditions for conducting it within a framework of respecting human rights.

¹¹ Amnesty International: Decision on State obligations to respect, protect and fulfil the human rights of sex workers.
<https://www.amnesty.org/en/policy-on-state-obligations-to-respect-protect-and-fulfil-the-human-rights-of-sex-workers/>