

CIVIL SOCIETY RESPONSE

to the Press Release by the
Special Rapporteur on Trafficking in Persons, Especially Women and Children, Ms. Sigma Huda, on the occasion of the International Day on the Elimination of Violence against Women issued November 24, 2006¹

December 6, 2006

The undersigned organizations and advocates work in the areas of trafficking in persons and gender-based violence. We welcome the concerns expressed by UN Special Rapporteur on Trafficking in Persons, Especially Women and Children, Ms. Sigma Huda, on the International Day on the Elimination of Violence against Women and her call for “finding alternatives to debt settlements in sending states and to exploitation in the name of cheap labour in receiving states as well as reduction of poverty and more economical empowerment of women.”

We are, however, concerned that the Special Rapporteur states that all prostitution is a category of violence against women. Such a statement is overly broad and is not supported by documentation or evidence. Rather, it represents one particular and contested point of view, which she is, of course, free to express. Our concern is that this view is presented as fact rather than as her personal opinion.

First, it is imperative to make a conceptual and evidentiary distinction between trafficking in persons and prostitution or sex work. The international community, in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, recognizes that not all prostitution is trafficking.² During the course of her investigations on trafficking and violence against women in India, the Special Rapporteur on Violence against Women, Radhika Coomaraswamy, met with sex workers who explained that not all prostitution is trafficking:

16. Forced prostitution remains the primary goal of traffickers in women and girls into India. The actual number of women in sex work in India is difficult to assess. A survey sponsored by the Central Social Welfare Board of India in 1991 in six metropolitan cities indicated that the population of women and children in sex work is between 70,000 and 1 million. Thirty per cent of them are below 18 years old. Nearly 40 per cent began sex work when they were under 18. Seventy per cent of them are illiterate. Strangely, only 43 per cent wanted to be rescued; the majority did not mind remaining as sex workers as they saw few other options.³

¹ <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/E6D1FDC2100E8B31C125723000819F86?opendocument>

² “The travaux préparatoires should indicate that the Protocol addresses the exploitation of prostitution of others and other forms of sexual exploitation only in the context of trafficking in persons. The terms “exploitation of the prostitution of others” or “other forms of sexual exploitation” are not defined in the Protocol, which is therefore without prejudice to how States Parties address prostitution in their respective domestic laws.” A/55/383/Add.1, subpara. 65, http://www.unodc.org/pdf/crime/final_instruments/383a1e.pdf

³ Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 2000/45, Addendum, Mission to Bangladesh, Nepal and India on the issue of trafficking of women and girls (28 October-15 November 2000), [www.unhchr.ch/huridocda/huridoca.nsf/0/4cb26594f04a53a4c1256a1b0055e5df/\\$FILE/G0110865.doc](http://www.unhchr.ch/huridocda/huridoca.nsf/0/4cb26594f04a53a4c1256a1b0055e5df/$FILE/G0110865.doc)

She also reports on another encounter with sex workers, who clarified their concerns:⁴

In an industrial suburb near Bombay, NGO activists took the Special Rapporteur to meet some sex workers during the day when they had to time to speak to her. Many of these women were from traditional devadasi families. Their families had given them to the village temple for sex work but after a while they left the temple and went to work in the city. A group of women met with the Special Rapporteur at her request. She spoke to them of the possibility of setting up rehabilitation centre near the suburb so that the women could get medical check-ups and learn another trade and find alternative avenues of employment. The women were visibly upset by the Special Rapporteur's suggestion. They informed the Special Rapporteur that they were very happy in their work and that they earned and saved enough money to keep their children and their parents back in the village. They had no intention of changing their trade. They informed the Special Rapporteur that she and other middle class women were safe and comfortable because of the sex workers and their trade. If the Special Rapporteur wanted to assist them, she could help them with programmes to prevent AIDS or programmes to educate their children. However, they felt that they were not in need of rehabilitation. (para. 13)

We also note that the Special Rapporteur on Trafficking in Persons did not join the November 24, 2006 Joint Statement on violence against women issued by the UN High Commissioner for Human Rights, the UN Special Rapporteur on Violence Against Women and the UN Special Rapporteur on the Human Rights of Migrants.⁵ We were disappointed that she did not sign this statement, as we find it to be a more balanced analysis that does not name prostitution as a form of violence per se.

Second, sex workers around the world universally complain about experiencing violence during the course of their work. However, it is not sex work itself that is the problem. Instead, it is the violence precipitated by their vulnerable, marginalized and stigmatized status within society that leads to violence. Sex workers are most vulnerable in situations where sex work is criminalized or stigmatized and where they are treated as outsiders who are unable to avail themselves of legal protections. The almost total failure of law enforcement and other authorities to investigate or prosecute anyone for the acts of violence committed daily against sex workers ensures this vulnerability. States not only fail to protect the rights of people in the sex sector, but vulnerability is compounded by the fact that police are often the perpetrators of violence against sex workers and able to terrorize sex workers with total impunity.

We support the ability of sex workers—including migrant sex workers and migrants generally—to seek legal protection when faced with violence. The Joint Statement correctly notes the complexity of human rights violations as experienced by female migrants, stating, “[t]hese human rights violations are not inevitable consequences of women’s migration. They can be curbed if states are truly committed to protecting migrant women against violence, trafficking and exploitation, without denying them the option to migrate legally, if they choose to.”

⁴ UN Special Rapporteur on Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 2000/45, Addendum Mission to Bangladesh, Nepal and India on the issue of trafficking of women and girls (28 October-15 November 2000)* (E/CN.4/2001/73/Add.2) 13.

⁵ Joint Statement on Occasion of International Day on the Elimination of Violence Against Women, States Urged to Assure that Women Can Migrate Without Fear of Violence, 24 November 2006, [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/5B561B840D2B5CB5C125723000627FE9?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/5B561B840D2B5CB5C125723000627FE9?OpenDocument)

We encourage the Special Rapporteur on Trafficking in Persons to meet with women in all parts of the sex sector in order to obtain unfiltered information about their lives, hopes and demands for a violence-free future. We thus hope that the next statement from the Special Rapporteur on human trafficking and the sex sector will be evidence-based and informative, revealing the complexity of the lives of trafficked persons as well as adults in the sex sector who are not trafficked.

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