**Submission by Apne Aap Women Worldwide, VOPPA (Victims of Poverty and Prostitution Alliance), Last Girl Network and campaign for Protection of India’s Children to the CEDAW Committee on Trafficking in and the Exploitation of Prostitution of Women and Girls in the Context of Global Migration, 72nd Session**

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This response is being jointly submitted by Apne Aap Women Worldwide India Trust, Victims Of Poverty and Prostitution Alliance (India), Last Girl Network and Campaign for Protection of India’s Children which together represent 117 survivor-centric organizations. Over the last four years in various regional and national consultations we discussed the reasons for the increase in prostitution and sex-trafficking in India. Our discussions were held in the light of the fact that:

Human trafficking cases doubled in 3 years, between 2013 and 2016. Year by year, the number of cases nationwide has increased successively from 3,940 in 2013 to 5,235, 7,143 and 8,132 in 2016.[[1]](#footnote-1)

Insights of victims, survivors of prostitution and other forms of sexual exploitation as well as front-line social workers make us assert that no General Recommendation on Trafficking would be comprehensive without acknowledging the fact that disappearing social, economic, legal and political protections is increasing vulnerabilities of the most marginalized women and girls leading to their prostitution and sex-trafficking.

Our findings reveal that the reasons for the increasing vulnerabilities that led to increase in the prostitution are:

1. Target Rape with impunity of girls and women from Dalit, Adivasi, Muslim and other Minority groups has made them easy prey for the traffickers. The father of a

Dalit girl in Unnao, who was raped by an elected official from the ruling party, was

arrested and then died mysteriously in police custody.[[2]](#footnote-2) In 2018, a 8-year-old Muslim girl, from a community of nomadic shepherds, was brutally raped and murdered in Kathua, in the state of Jammu & Kashmir. Despite the brutal nature of the crime committed by powerful men against an innocent child, some groups ran media campaigns and mobilized people into rallies in support of the perpetrators. These rallies were attended by members of the ruling party.[[3]](#footnote-3)

1. Changes in law and policy are providing impunity to the exploiters. This can be substantiated by examining the loopholes in the Child Labour (Prohibition and Regulation) Amendment Act 2016 that came into force in the country on 29th July, 2016. These changes brought in the legalization of child labour in audio-visual entertainment, and family-based enterprises and limit the scope of the definition of “hazardous” works by significantly reducing the lists of hazardous occupations and processes. This is likely to have a far-reaching effect on children’s right to learn, play and develop.[[4]](#footnote-4) It has also expanded the definition of ‘family’. The new law has exacerbated the vulnerability of the children to be trafficked. hip document as is the case with almost all marginalised and vulnerable communities. It is impossible to monitor and determine if children are only helping family members, especially in a situation where the definition of ‘family’ is also extended. It is also impossible to determine if children are helping only before and after schools.
2. Child marriage is another factor which leads to child labour and sexual exploitation of girls, often leading her to situations of trafficking. She is subjected to household work, made to provide for or contribute financially to the household, and is subjected to sexual exploitation. According to a UNICEF 2007 report, about one-half of the girls who are affected by child marriage live in South Asia. Apne Aap advocates accessibility and quality formal education along with scholarships. [[5]](#footnote-5)
3. Another sector that employs children and women on large scale which is unregulated and often entail sexual exploitation of girls and women is domestic work Apne Aap and other organizations have considerably noticed that most domestic workers are from vulnerable communities – Adivasis, Dalits or landless other backward classes (OBCs). Nearly all of them are migrant workers. They come from India’s least-developed regions, such as Jharkhand, West Bengal and Assam and are also often abused mentally, physically and sexually. The 2011 NSSO data put the number of domestic workers at 3.9 million, while trade unions estimate the number to be around 10 million. Therefore, as an economic activity, domestic work is too vast and employs too many to remain unregulated. Domestic servitude also entails physical, mental and sexual exploitation. Example: Bangladeshi and Indian doemstic workers in the Middle East have spoken of their mental, physical and sexual exploitation. Rohingya women are even more vulnerable because they are a minority. Political commitment is crucial toward prevention of such exploitation.[[6]](#footnote-6)
4. The Santosh Mehrotra Report [[7]](#footnote-7) and the World Bank Report, Unlocking Women’s Potential: India Development Update, May 2017[[8]](#footnote-8) indicate steep and continuous fall in female labour force participation rate. The Mehrotra report points out among the reasons, most important being lack of infrastructure, mechanization of agriculture and unequal wages. Vast majority of groups who have been doing threshing in the fields have been replaced by mechanized production system. These groups are mostly from Dalit and minority communities who for mere survival very often fall prey to the traffickers.
5. All these vulnerabilities are further aggravated by the growing budget cuts in the social sector. A report published by Apne Aap based on its consultations show that In the 2017 budget, the share for education has fallen from 2.40% to 2.34%, and it remains an under-resourced area given the national and international commitments and the goal of spending 6% of the GDP on child education . There has been a denial of funds to the tune of INR 40,000 crores for Scheduled Castes (SCs) and INR 18,000 crores for Scheduled Tribes ; and there has been an increase by only INR 1,305 crores for the National Education Mission which constitutes the Sarva Shiksha Abhiyan, the Rashtriya Madhayamik Shiksha Abhiyan (RMSA) along with teacher training and adult education – which is not very heartening since India failed to meet the Millennium Development Goal of achieving universal primary education by 2015 . Pre-matric scholarships for SCs have been reduced by 91% and there has been a nominal increase of INR 300 crores in mid-day meals, which is totally insufficient to combat malnutrition among the millions of school-going children for whom mid-day meal has been the primary attraction. All this doesn’t project a positive picture since around 63 lakh children between 6 - 17 years are working for more than 180 days in a year.[[9]](#footnote-9) There are slight increases in the subsequent budgets, but they still are depressingly inadequate. These cuts in the social sector terribly increases the chances of vulnerabilities.
6. The problem of trafficking of women and children thrives on the multiple layers of social depravity which creates desperate situation for survival and complete erosion of alternatives towards dignified life. We arrive at this understanding from our work with victims and survivors from Bihar, Kolkata and Delhi. The study conducted by Apne Aap among the Perna, Singhi and Sapera communities of Dharampura in Delhi[[10]](#footnote-10) highlighted the need for greater responsibility on the part of the state toward freed/denotified tribes (DNT) by collecting their testimonies of their socio-economic existence and vulnerabilities. Among the Perna community in Delhi for instance, there is the practice of intergenerational prostitution where men pimp their own women; the Sapera women from Sapera communities grapple with poverty and ever increasing debts which often make them susceptible to indecent propositions and advances by moneylenders; the women from Singhi community roam around the streets begging for one square meal that would tide them through the day, avoiding and sometimes unable to avoid molestations. These communities remain outside the realm of documentation and governments need to invest more in the most disenfranchised and vulnerable girls so that she can access and avail of her human rights.[[11]](#footnote-11)
7. In coming years the problem of trafficking will be further increased within those who are forcefully displaced like asylum seekers, internally displaced persons (IDP), refugees people who are at the risk of statelessness . It is important to note that forceful displacement breaks the security network. In 2017 report by United Nations High Commissioner for Refugees (UNHCR) it was highlighted that developing countries host almost 85% of refugees under UNHCR mandate. This report highlights that the Rohingyas are stateless due to the restrictive provisions and application of the Myanmar citizenship law, which primarily confers citizenship on the basis of ethnicity rendering others as ‘stateless’; it rendering them discriminated, vulnerable and denial of basic human rights. However, without access to a legal status, they are at a higher risk of violence, exploitation, sexual abuse, trafficking and discrimination. In such situations when alternative means of livelihood and economic opportunities are absent risk of trafficking is extremely high.

We are happy to learn that the objective of drafting CEDAW committee’s General Recommendation is to “uncover the root causes of women’s and girls’ increased risk to trafficking and remaining as trafficking victims, in order that these be identified, recognized and addressed by States Parties”, for which the Committee is mandated by article 21 of the Convention on the Elimination of All Forms of Discrimination Against Women to développer General Recommendations with the aim of: “providing authoritative guidance to States parties on legislative, policy and other appropriate measures to ensure the implementation of their obligations under the Convention and its Optional Protocol”.

In this context, we submit that :

• Women and girls, and among them, the most vulnerable and discriminated groups (migrant, refugees, low castes, minors, victims of armed conflicts, displacement, prior sexual violence, natural disasters etc.) are overwhelmingly represented in the trafficking in women and girls and the exploitation of prostitution of women and girls.

• They have been exploited and violated by sex buyers, pimps, traffickers and others who have bought them, sold them and profited from their exploitation with impunity.

• Therefore, we raise a pertinent demand for de-criminalizing of prostituted women and instead make a push for the criminalizing of the demand of prostitution which includes not just the pimps and brothel owners but also the buyers of sex or the johns. The 2014 Judgment by the High Court at Patna in response to a Public Interest Litigation filed by Apne Aap Women Worldwide in 2013 should be considered as a national best practice document for combatting trafficking holistically.

• Also, critically important is to advocate for laws and policies that exonerate prostituted women from police arrest and criminal punishment and instead hold their sex buyers accountable for the irreparable harm they perpetrate.

• Vulnerability, particularly, is an important factor in India and other South Asian countries where certain caste communities have struggled with socio-economic backwardness throughout history, and are trapped in inter-generational prostitution or are at risk of being trafficked for prostitution, child labour, organ trading, etc. because of their poverty and lack of choice to lead dignified lives. For example, the case of the freed/denotified tribes (DNTs) in India, which were the erstwhile ‘criminal tribes’ as labelled by the British administration. Even after independence, most of these communities have not been enumerated by the Census, continue to live in poverty, practice ‘occupation’ like begging, rag-picking, prostitution, etc. Hence prevention and preventive measures to curb trafficking by addressing vulnerabilities of at-risk population should have be a major concern for all legislative measures of states parties.

• Rehabilitation of trafficked victims should be holistic. Besides skills training, they must have access to subsidized food, quality health care, housing facilities.

• The role of police as an important stakeholder is crucial. They should respond swiftly to cases of trafficking and investigation should be carried out quickly so as to put the perpetrators behind bars. There is need to include more nuanced and effective mechanisms for the identification of victims of trafficking. Unless and until we do not have sufficient procedures and trained personnel to identify the victims, the whole law making around it stands incomplete.

• There is a need to institute efficient, swift and durable system of referral services for the victims of trafficking, nationwide.

• Women who choose to exit prostitution should be provided state-sponsored rehabilitation and support mechanisms to prevent any possibility of getting re-trafficked.

1. https://indianexpress.com/article/explained/human-trafficking-cases-double-in-3-years-bulk-of-them-in-west-bengal-5580936/ [↑](#footnote-ref-1)
2. https://timesofindia.indiatimes.com/city/lucknow/unnao-rape-survivors-father-dies-in-custody/articleshow/63689188.cms [↑](#footnote-ref-2)
3. <https://en.wikipedia.org/wiki/Kathua_rape_case> & https://www.change.org/p/narendramodi-demand-justice-for-india-s-8-year-old-rape-victim [↑](#footnote-ref-3)
4. https://labour.gov.in/sites/default/files/THE%20CHILD%20LABOUR%20%28PROHIBITION%20AND%20REGULATION%29%20AMENDMENT%20ACT%2C%202016\_0.pdf [↑](#footnote-ref-4)
5. Highlights and Recommendations for Anti-Trafficking Bill to combat Prostitution as Sex-Trafficking, Child Labour, Domestic Servitude, Bonded Labour, and Cheap Labour in India, Three City Consultations by Apne Aap Women Worldwide with Key Stakeholders , Published January, 2018. [↑](#footnote-ref-5)
6. Ibid [↑](#footnote-ref-6)
7. Low Female Employment in a Period of High Growth: Insights from Primary Survey in Uttar Pradesh and Gujarat: IAMR Report No. 09/2013 [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)
9. Union Budget: A Window of Opportunity for Our Children? Budget for Children 2017-18, Haq, 2017, accessed at [http://haqcrc.org/wp-content/uploads/2017/02/budget-for-children-quick-budget-analysis-2017-18.pdf on 14 Nov 2017](http://haqcrc.org/wp-content/uploads/2017/02/budget-for-children-quick-budget-analysis-2017-18.pdf%20on%2014%20Nov%202017) [↑](#footnote-ref-9)
10. Under international law IDPs are those who are not considered as nationals by any State under the operation

of its law. In other words, they do not possess the nationality of any State. (UNHCR, 2017) [↑](#footnote-ref-10)
11. Women and girls of the Perna, Sapera and Singhi communities of Dharampura: Documenting their intersecting inequalities, vulnerabilities and susceptibility to sex trafficking: Study conducted by Apne Aap Women Worldwide during February 2017 – August 2017 with the support of German Federal Foreign Office. Published January 2018 [↑](#footnote-ref-11)