

DPU MUN 2019

WELCOME TO UNITED NATIONS HUMAN RIGHTS COUNCIL

Discussing protection of rights of sex workers and their rehabilitation with emphasis on trafficking.

Esteemed participants,

We, the Secretariat of DPU Model United Nations Conference 2019 feel more than honored to be welcoming you to the 2nd Edition of this ambitious youth conference. Organized under the framework of Model United Nations, in accordance with its vision to familiarize MUN related activities to young people in the country, the DPU MUN 2019 is eager to reach wide range of attendants from high schools and universities which are deeply interested in diplomacy, international relations, politics and the United Nations itself while constituting a unique experience of debating and socializing at the same time. This year, the conference takes it a step further as it is composed of 4 committees chosen delicately to the very attention of the mentioned variety of participants holding Security, Human Rights, Development Programme committees as well as a Rajyasabha simulation. The academic team embraces an understanding of content which concerns actual and urgent problems that the world faces currently in order to create awareness of the facts touched upon over the youth to which it addresses. The academic content and the structure of the committee have been prepared by the respected Secretary-General (Ms. Ketaki Sawant) and Deputy-Secretary-General (Mr. Bharat Patkar). We advise the participants of this well-prepared committee to read the provided guide thoroughly. For any further questions, please do not hesitate to contact us via mun.dpu@gmail.com .

Best regards Ms. Ketaki Sawant (Secretary-General), Mr. Bharat Patkar (Deputy-Secretary-General), Ms. Shruti Shinde (Director-General), Mr. Aman Kumar (Deputy-Director-General) and Mr. David Nathi (Deputy-Director-General) of DPU MUN Conference 2019.

INTRODUCTION

The Human Rights Council is an Inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former **United Nations Commission on Human Rights**.

HISTORY

The Council was created by the United Nations **General Assembly** on 15 March 2006 by resolution **60/251**. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its "**Institution-building package**" to guide its work and set up its procedures and mechanisms.

Among them were the **Universal Periodic Review** mechanism which serves to assess the human rights situations in all United Nations Member States, the **Advisory Committee** which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the **Complaint Procedure** which allows individuals and organizations to bring human rights violations to the attention of the Council.

The Human Rights Council also works with the UN **Special Procedures** established by the former Commission on Human Rights and now assumed by the Council. These are made up of special rapporteurs, special representatives, and independent experts and working groups that monitor, examine, advice and publicly report on thematic issues or human rights situations in specific countries.

Membership of the Human Rights Council

Membership

The Council is made of 47 Member States, which are elected by the majority of members of the General Assembly of the United Nations through direct and secret ballot. The General Assembly takes into account the candidate States' contribution to the promotion and protection of human rights, as well as their voluntary pledges and commitments in this regard.

The Council's Membership is based on equitable geographical distribution. Seats are distributed as follows:

African States: 13 seats

Asia-Pacific States: 13 seats

Latin American and Caribbean States: 8 seats

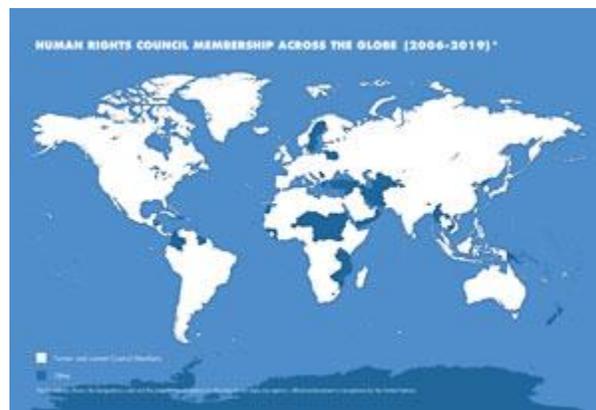
Western European and other States: 7 seats

Eastern European States: 6 seats

Members of the Council serve for a period of three years and are not eligible for immediate re-election after serving two consecutive terms.

With membership on the Council comes a responsibility to uphold high human rights standards. This is a criteria insisted on by States themselves when they adopted **resolution 60/251** in March 2006 to create the Human Rights Council.

HRC Membership across the globe (2006 - 2019)



* As of 1 January 2019, 114 UN member States will have served as Human Rights Council Members, reflecting the UN's diversity and giving the Council legitimacy when speaking out on human rights violations in all countries: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belgium, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Chile, China, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Guatemala, Hungary,

Iceland, India, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Libya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Namibia, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Republic of North Macedonia, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Somalia, Spain, Sri Lanka, Switzerland, Thailand, Togo, Tunisia, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Zambia.

Presidency and Bureau

The **Bureau of the Council** consists of five people - one **President** and four Vice-presidents - representing the five regional groups. They serve for a year, in accordance with the Council's annual cycle.

Sex workers' rights

Sex workers' rights encompass a variety of aims being pursued globally by individuals and organizations that specifically involve the human, health, and labor rights of sex workers and their clients. The goals of these movements are diverse, but generally aim to decriminalize and destigmatize sex work, and ensure fair treatment before legal and cultural forces on a local and international level for all persons in the sex industry.

The term *sex work* refers primarily to prostitution, but also encompasses adult video performers, phone sex operators, webcam models, dancers in strip clubs, and others who provide sexually-related services. Some extend the use of the term to include "support personnel" such as managers, agents, videographers, club bouncers, and others. The debate over sex work is often characterized as an issue of women's rights, especially by those who argue that prostitution is inherently oppressive and seek to criminalize it or keep it illegal, but in fact, there are also many male and non-binary individuals engaged in providing sexual services. Most sex workers do not wish to be branded as criminals and regard laws against prostitution, pornography, and other parts of the sex industry as violating their rights.

Discrimination and stigmatization

In most countries, even those where sex work is legal, sex workers of all kinds feel that they are stigmatized and marginalized, and that this prevents them from seeking legal redress for discrimination (for e. g., racial discrimination by a strip club owner, dismissal from a teaching position because of involvement in the sex industry), non-payment by a client, assault, or rape. Activists also believe that clients of sex workers may also be stigmatized and marginalized, in some cases even more so than sex workers themselves. For instance, in Sweden, Norway, and Iceland, it is illegal to buy sexual acts, but not to sell them (the buyer is said to have committed a crime, but not the prostitute).

Human trafficking

The human trafficking debate, a prominent discourse in the 21st century, has materialized as a result of the movement. Current debates center on whether the best way to protect women would be through abolition, criminalization, decriminalization, or legalization.

United Nations (UN)

UNAIDS has written a report with policy suggestions in Asia and the Pacific that includes case studies to support ways to improve access to health services in Asia and the Pacific. It also addresses some of the factors that hinder sex workers from accessing health services. Furthermore, the UN released a development report titled *Sex Work and the Law in Asia and the Pacific* discussing the policies surrounding sex work in Asian and Pacific countries, the effects these laws have on sex workers, and policy recommendations. Some of the policy recommendations for governments included decriminalizing sex work and activities associated with it, providing sex workers with work-related protections, and supporting sex workers' access to health services.

They have also released a 2011-2015 strategy report titled *Getting to Zero* that aims for the vision of "Zero new HIV infections. Zero discrimination. Zero AIDS-related deaths". The report states that its goals include reducing HIV transmission by half, getting universal access to antiretroviral therapy for those living with HIV, and reducing the number of countries with punitive laws around HIV transmission, sex work, drug use, or homosexual activity by half all by 2015.

FEATURE STORY

Protecting the rights of sex workers

Sex workers continue to face criminalization, violence, discrimination and other forms of human rights violations which increase their risk of acquiring HIV.

Sex workers—female, male and transgender adults who have consensual sex in exchange for money or goods, either regularly or occasionally—are among the populations that are being left behind in the HIV response. HIV prevalence among sex workers is 10 times higher than among the general population, and sex workers are poorly served by HIV services.

Many of the human rights challenges, vulnerabilities and barriers sex workers face in accessing HIV services are due to criminalization and the restrictive laws, regulations and practices they face. Selling and/or buying sex is partially or fully criminalized in at least 39 countries. In many more countries some aspect of sex work is criminalized, and in other countries general criminal law is applied to criminalize sex work (for example, laws against loitering and vagrancy).

The threats of detention, as well as laws that allow for the use of condoms as evidence of sex work are serious barriers to the availability and uptake of HIV prevention programmes and services. When possession of condoms is used by the police as evidence of sex work, this greatly increases the risk of HIV among this key population. Even where sex work is not criminalized, sex workers are rarely protected under the law

Furthermore, studies have shown that female sex workers are subjected to high levels of violence in Haiti, for example, 36.6% of female sex workers report physical violence and 27.1% report sexual violence.

However, sex worker organizations are leading efforts to advance their human rights and access to HIV services in many countries. In South Africa, sex worker-led organizations worked closely with the Ministry of Health to develop the South African National Sex Worker HIV Plan 2016–2019, which calls for an enabling environment for the protection of, and access to HIV services for, sex workers. The nationwide programme enlisted peer motivators to assist in the distribution of condoms and lubricant, information on sexually transmitted infections and HIV prevention, paralegal services and health service referrals. Community empowerment services that aim to reduce violence, stigma and discrimination included sensitization training and a helpline for sex workers.

In India, sex worker organizations are working with the police and the community to reduce violence against sex workers, and to establish health and social services for themselves and their families.

There is growing evidence of the importance of addressing the structural and legal barriers that affect sex workers. Ending the AIDS epidemic as a public health threat would require translating this evidence into practice, including by ensuring that governments and all stakeholders prioritize and intensify efforts to protect the human rights of sex workers and to increase their access to HIV prevention and treatment services.

WHAT IS HUMAN TRAFFICKING?

International agreement on what constitutes “trafficking in persons” is very recent. In fact, it was not until the late 1990s that States began the task of separating out trafficking from other practices with which it was commonly associated such as facilitated irregular migration. The first-ever agreed definition of trafficking was incorporated into the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol). That definition has since been incorporated into many other legal and policy instruments as well as national laws.

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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 or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

The human rights of trafficked persons:

Both the Charter of the United Nations and the Universal Declaration of Human Rights confirm that rights are universal: they apply to everyone, irrespective of their race, sex, ethnic origin or other distinction. Trafficked persons are entitled to the full range of human rights. Even if they are outside

their country of residence, international law is clear that trafficked persons cannot be discriminated against simply because they are non-nationals. In other words, with only some narrow exceptions that must be reasonably justifiable, international human rights law applies to everyone within a State's territory or jurisdiction, regardless of nationality or citizenship and of how they came to be within the territory. International human rights law recognizes that certain groups require additional or special protection. This may be because of past discrimination or because their members share particular vulnerabilities. In the context of trafficking, relevant groups include women, children, migrants and migrant workers, refugees and asylum seekers, internally displaced persons, and persons with disabilities. Sometimes, members of a group will be specifically targeted for trafficking. Children, for example, may be trafficked for purposes related to their age such as sexual exploitation, various forms of forced labor and begging. Persons with disabilities can also be targeted for certain forms of exploitative labor and begging. Women and girls are trafficked into gender-specific situations of exploitation such as exploitative prostitution and sex tourism, and forced labor in domestic and service industries. They also suffer gender-specific forms of harm and consequences of being trafficked (for example, rape, forced marriage, unwanted or forced pregnancy, forced termination of pregnancy, and sexually transmitted diseases, including HIV/AIDS).

The importance of a human rights-based approach to trafficking

While the link between human rights and human trafficking is clear, it does not necessarily follow that human rights will naturally be at the centre of responses to trafficking. For example, cross-border trafficking can be dealt with as an immigration issue, with human rights being addressed only as an afterthought. It is also possible for States to address trafficking primarily as a matter of crime or public order. Over the past decade, an international consensus has developed around the need for a rights-based approach to trafficking. The General Assembly and the Human Rights Council, for example, have both advocated such an approach, as have many relevant human rights mechanisms, including special procedures and treaty bodies. What does it mean, in practical terms, to take a human rights-based approach to trafficking? A human rights-based approach is a conceptual framework for dealing with a phenomenon such as trafficking that is normatively based on international human rights standards and that is operationally directed to promoting and protecting human rights. Such an approach requires analysis of the ways in which human rights violations arise throughout the trafficking

cycle, as well as of States' obligations under international human rights law. It seeks to both identify and redress the discriminatory practices and unjust distribution of power that underlie trafficking, that maintain impunity for traffickers and that deny justice to their victims. Under a human rights-based approach, every aspect of the national, regional and international response to trafficking is anchored in the rights and obligations established by international human rights law. The lessons learned in developing and applying a human rights-based approach in other areas, such as development, provide important insights into the main features of the approach and how it could be applied to trafficking. The key points that can be drawn from these experiences are:

- As policies and programmes are formulated, their main objective should be to promote and protect rights;
- A human rights-based approach identifies rights holders (for example, trafficked persons, individuals at risk of being trafficked, individuals accused or convicted of trafficking-related offences), their entitlements and the corresponding duty bearers (usually States) and their obligations. This approach works towards strengthening the capacities of rights holders to secure their rights and of duty bearers to meet their obligations.
- Core principles and standards derived from international human rights law (such as equality and non-discrimination, universality of all rights, and the rule of law) should guide all aspects of the response at all stages.

The following sections show clearly how recent developments at the international, regional and national levels have helped to clarify what a rightsbased approach to trafficking means in practice.

Enforcement

Policy making and law reform are difficult when patterns of enforcement bear little or no relationship to formal law. Enforcement practices that are substantially based on discretion are unreliable and prone to corruption. In most cases, especially in poor countries, few arrested sex workers are formally charged with an offense, taken to court, and jailed. It is common, particularly in countries where the rule of law is weak, for sex workers and sex business operators to pay fines or bribes or to be incarcerated in police stations, detention centers, and even jails without formal charges and an opportunity to appear in court. Indeed, some sex worker activists have alleged that this process can be so entrenched that only military police or retired officers are

able to operate sex venues safely. Conversely, in some places, laws against commercial sex are not enforced because there are insufficient resources to do so, or because there is a deliberate policy of tolerance.

Limited Rights

Undocumented migrants and refugees are the most instantly recognized categories of people lacking the rights that accrue to citizens of a country. However the benefits of citizenship are not automatic to all born in the country in which they reside, in particular those whose births are not registered. Sex workers appear to be disproportionately affected by lack of citizenship rights, or “recognition as persons before the law.” The combination of the legal status of sex work, the lack of legal status of the person who is the sex worker, and social stigma plays a significant role in driving social and economic vulnerability. Sex workers and their children are deprived of all ordinary civil entitlements. Sex workers without documents such as birth certificates or identity cards have limited access to services and are unable to enter into formal agreements, such as leases or contracts, or to interact with government departments. This means they are unable to own, rent, or inherit property, vote, register the births of their children, or access education, justice, health care, loans or banking services, utilities, or work in the formal economy. In some cases, the inability to produce proof of identity will be associated with disrespectful and hostile attitudes in clinics, schools, and government offices. This may lead HIV-positive sex workers to avoid treatment that could both save their own lives and prevent transmission. It can also mean being held in detention centers or police custody longer, as they must be released into the care of someone who is legally recognized as a person.

Regional Organizations

Although research about the sex worker movement has been conducted mainly in North American and Western European countries, sex worker-led mobilization has occurred around the world. Such actions seek to influence policies so that sex work is recognized as a legitimate profession, and sufficient rights are provided to sex workers.

Australia

Scarlet Alliance is the peak body for sex worker organizations in Australia and campaigns for the full decriminalization of sex work, in addition to providing HIV/AIDS outreach and education to sex workers. The country has been credited with better sex worker occupational health and safety, high condom use, and the lowest STI and HIV rates around the world.

Furthermore, the now-defunct Prostitutes Collective of Victoria (PCV), founded in Melbourne, Victoria, was the first sex workers' organization in the world to receive government funding (the organization was renamed "Resourcing Health Education for the Sex Industry (RhED)" and became part of the Inner South Community Health Service, but, as of 2013, is a different kind of organization).

Africa

SWEAT (Sex Worker Education and Advocacy Task) is an advocacy organization located in Cape Town, South Africa, with the goal of providing education and public health services to sex workers. They also lobby for the decriminalization of sex work, and have recently begun a research program in 2003, with the goal of influencing future policy pertaining to sex workers.

Asia

The Asia Pacific Network of Sex Workers (APNSW) was formed in 1994 to advance the rights of sex workers in Asia, and to provide direct support to Asian sex workers, particularly in relation to human rights issues and HIV support services. Australian-born sex worker activist Andrew Hunter was instrumental in the development of APNSW, as well as a contributor to the growth of the Global Network of Sex Work Projects (NSWP), and his significant history of activism is internationally recognized.

Europe

TAMPEP is organization that was founded in 1993. Its aims are to help migrant sex workers in more than twenty-five European nations especially focusing on the public health needs of those workers in Central and Eastern Europe. It also examines the legislative framework that sex work takes place within in order to suggest better policies that would protect sex workers. Some of the outreach methods used to assist sex workers include outreach and education and cultural and peer mediators. Some of the results of research carried out include identification of migrant sex workers and barriers to protection of their rights and the creation of networks between sex workers, organizations, and medical care.

North America

The Sex Professionals of Canada (SPOC) is a national, voluntary, sex worker-run organization that is funded entirely by donations. Founded in 1983, the organization seeks to decriminalize all forms of sex work in Canada through advocacy and education.

South America

The Network of Sex Workers in Latin America and the Caribbean (RedTraSex) was organized in 1997 in fifteen countries to fight for the rights of sex workers. So far, the organization has influenced policy in certain countries and has interacted with the president Rafael Correa of Ecuador and Luis Ignacio Lula de Silva in Brazil. One achievement made in Latin America has been the sex

worker identification card that has been issued in Bolivia. Furthermore, more sex workers have been included in HIV and health services education.

World Health Organization (WHO)

The World Health Organization has released a report focusing on the violence that sex workers face and their vulnerability to HIV/AIDS. It included currently used intervention strategies as well as policy recommendations from the *WHO Sex Work Toolkit*. Furthermore, another report addressing HIV prevention in middle to low-income countries was released with policy guidelines based off research conducted by the organization which recommended that sex work be decriminalized and called for the elimination of unjust application of non-criminal laws and regulations against sex workers.

Solutions

Principles

According to the UN Advisory Group on Sex Work, efforts to empower sex workers have resulted in measurable improvements in sex workers' quality of life, self-confidence, and agency. Studies have documented good social and economic outcomes, increased social capital, and high rates of condom use. Creating regulatory frameworks that enable these improvements is crucial.

Although national regulatory regimes will consist of different mixes of laws and policies, the principle that should govern and inform reform efforts is that sex workers should enjoy the same protections and benefits as other citizens and workers. Sex workers must be understood as persons endowed with rights in a meaningful fashion, not merely as a rhetorical claim. To achieve this, the following should form the basis of a reform framework:

Recognition of sex work as an occupation

A commitment to the application of human rights standards and norms, including recognition of sex workers as legal persons capable of holding and exercising all human rights, the right to work, freedom of association, and a recognition of the right of consenting adults to form sexual relationships, paid and unpaid.

A commitment to ensuring that commercial sex can take place under healthy and safe conditions that are understood to exclude oppressive testing regimes.

Guaranteed access for sex workers to health and social services.

Justice, including but not limited to, protection from violence, abuse, and discrimination.

For this to happen, it will be necessary to adopt consistent use of precise language to describe the regulatory environments for commercial sex, the consequences of possible regulatory options, and the potential solutions. It will also be essential to collect accurate local data about the laws, policies, and enforcement practices to be remedied, and their impact, intended and unintended, on the health of male, female, and transgender sex workers.

Law Reform

In most countries, it will be necessary to repeal and reform criminal and other types of law (whether applied as intended or misapplied) that unnecessarily limit sex workers' access to safe workplaces, services, and economic opportunities. To be successful, this must be done in a manner that acknowledges the variety of forms that commercial sex takes, and the range of individuals who perform roles associated with commercial sex other than the physical provision of sexual services. As noted, there may be owners, employers, cleaners, drivers, cooks, and other support staff. Sex work can be arranged around entertainment venues such as hotels and bars, in formal brothels, as a home-based occupation or linked to personal services such as massage and escorts. Sex workers can be employees, sole traders, or independent contractors. Examples of suitable regulatory responses to all of these circumstances may be found by examining comparable health and safety and labor regulations for other occupations providing personal services.

At an international level, the ILO has begun this process by incorporating sex work into international labor standards through a recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200). In 2010, during the 99th Session of the International Labour Conference, delegates stated sex workers were implicitly covered in the category of: all workers working under all forms or arrangements, and at all workplaces, including...persons in any employment or occupation.

Bringing sex workers within the scope of this recommendation may be an important first step toward an international policy and legal framework, within which sex workers may benefit from the same protections as other workers.

At a national level, the New Zealand Prostitution Reform Act 2003 is often cited as an example of decriminalization of sex work. This Act recognizes various

forms of commercial sex and provides that contracts for commercial services are not void. It enables sex workers to refuse service, while allowing for the rescission or cancellation of a contract for a sexual service that is not performed. The Act also creates advertising restrictions, and stipulates that a permit to immigrate to New Zealand will not be granted on the basis that a person intends to operate or invest in commercial sexual business. A 2008 government report found that as a result of this act, many sex workers felt more able to report violent crimes and felt that the police respected their rights.

STEPS TAKEN BY THE GOVERNMENT TO PROTECT THE RIGHTS OF SEX WORKERS:

- Protecting them from harm, exploitation and coercion.
- Ensuring they can participate in the development of laws and policies that affect their lives and safety.
- Guaranteeing access to health, education and employment options.