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**TO: SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN AND GIRLS**  
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**SUBMISSION BY MEDIA MONITORING AFRICA:**  
**REPORT ON PROSTITUTION AND VIOLENCE AGAINST WOMEN AND GIRLS**

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## INTRODUCTION

1. Media Monitoring Africa (“**MMA**”) welcomes the opportunity to provide this submission to the Special Rapporteur on Violence against Women and Girls (“**Special Rapporteur**”) regarding the nexus between sex work and violence against women and girls.
2. MMA is a not-for-profit organisation based in South Africa that seeks to cultivate a free, fair, ethical, and critical media culture, both on- and offline.<sup>1</sup> Throughout our work, we promote the ideals of diversity, equality, and inclusion and have participated in various litigious proceedings and law reform processes concerning online harms, freedom of expression, children’s rights, and hate speech, among others.
3. Notably, in October 2023, MMA published a discussion document entitled, “Navigating the Narratives: Sex Work, the Media, and Online Platforms” (“**the discussion document**”).<sup>2</sup> Our findings primarily relate to the media and social media platforms as potential drivers of violence against sex workers. Through our work, including through these submissions, we advocate for the protection of sex workers’ rights, *inter alia*, to dignity, freedom of expression, and privacy.
4. Mindful of the aforementioned discussion document, and our work relating to diversity, equality, and inclusion, we hope that our submissions will be of use to the Special Rapporteur and welcome the opportunity to create safer, more inclusive discourses around sex work. This, in turn, can contribute towards preventing and ending violence associated with sex work.

## HIGH-LEVEL OVERVIEW OF THE SOUTH AFRICAN LEGAL CONTEXT

5. It is useful to briefly contextualise the South African legal position as it relates to sex work. Sex work in South Africa is criminalised in terms of the Sexual Offences Act<sup>3</sup> as well as the Criminal Law (Sexual Offences and Related Matters) Act.<sup>4</sup> In December 2022, the Department of Justice and Constitutional Development announced that an amendment of the legislation to decriminalise sex work was underway.<sup>5</sup> Following a robust public participation process, the process has stalled, much to the frustration of frontline organisations.

## MMA’S SUBMISSIONS ON OVERARCHING ISSUES

6. As a point of departure, MMA posits two overarching issues relating to the framing of sex work. These issues are perpetuated by various actors who yield influence over, for example, the law governing sex work and societal perceptions about sex workers.

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<sup>1</sup> For further information, see <https://www.mediamonitoringafrica.org/>.

<sup>2</sup> The discussion document is accessible [here](#).

<sup>3</sup> Act 23 of 1957.

<sup>4</sup> Act 32 of 2007.

<sup>5</sup> Media statement by the South African Government “Minister Ronald Lamola on Criminal Law Amendment Bill of 2022 – decriminalisation of sex work” (2022) (accessible [here](#)).

## Terminology

7. The first overarching issue is the continued use of outdated, harmful terminology. MMA wishes to highlight the link between attitudinal responses to sex work and the language associated with it.<sup>6</sup> According to studies, responses to sex work may be influenced by whether it is framed as “prostitution”, “sex work”, or “transactional sex”. Understanding such responses may help with measuring several related topics including, for example, support for government policy, partisanship, and self-reported victimisation.<sup>7</sup> Words such as “prostitute” or “prostitution” have been described as demeaning, carrying with them connotations about a sex worker’s worth, dignity, integrity, health status, and personal hygiene.<sup>8</sup> **We therefore submit that the outcome report shifts terminology away from ‘prostitution’ to ‘sex work’.**

## The distinction between sex work and child sexual exploitation

8. The second overarching issue is the conflation between women who autonomously engage in the sex trade and children who are victims of child sexual exploitation (“CSE”).
9. Fundamentally, CSE involves the manipulation and/or coercion of children to engage in sexual activities with adults, often transactional. In its report entitled, “Child Trafficking in South Africa: Exploring the Myths and Realities”, the Centre for Child Law highlights definitional challenges raised by the Palermo Protocol and the conflation between sex work and child trafficking.<sup>9</sup> The report notes that sex work is “any agreement between two or more persons in which the objective is exclusively limited to the sexual act and ends with that, and which involves preliminary negotiations for a price.” Sex work does not refer to persons under the age of 18 or the non-voluntary selling of sex or human trafficking for sexual exploitation. MMA supports this view.
10. A failure to distinguish between the two disregards an inquiry into consent, which is contrary to feminist understandings of sexual violence.<sup>10</sup> In the discussion document, MMA explores online CSE and suggests that through the accurate framing and reporting of this issue, those responsible for enabling CSE can be held to account. This aligns with the best interests of the child principle. **We, therefore, submit that the outcome report clearly distinguishes CSE from sex work both in framing and in recommendations and action.**
11. The remainder of MMA’s submissions are focused on the specific ways in which the media and social media platforms may contribute to the obstacles faced by sex workers as well as frontline organisations. On this basis, we provide recommendations to prevent and end violence

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<sup>6</sup> Hansen and Johannsson “Asking About “Prostitution”, “Sex Work” and “Transactional Sex”: Question Wording and Attitudes Toward Trading Sexual Services” *The Journal of Sex Research* Volume 60, Issue 1 (2023) (accessible [here](#)).

<sup>7</sup> *Id.*

<sup>8</sup> See, for example, ‘Dehumanising sex workers: what’s ‘prostitute’ got to do with it?’ (2013) (accessible [here](#)).

<sup>9</sup> Centre for Child Law “Child trafficking in South Africa: Exploring the Myths and Realities” (2020) (accessible [here](#)).

<sup>10</sup> Asijiki Coalition factsheet, “Sex work, human trafficking and the harm of conflating the two” (2015) (accessible [here](#)).

associated with sex work.

## **SUBMISSIONS ON THE ROLE OF NEWS MEDIA**

### **The need for nuanced reporting**

12. Although the way in which people consume news is rapidly changing, news media continues to play a critical role in the dissemination of information. News media refers to the broad umbrella of traditional, print media, and broadcast media including those who adhere to accepted ethical standards of reporting. MMA notes that news media continues to act as an indispensable provider of information for those without internet, or meaningful access.
13. Reporting patterns regarding sex work can influence the public's understanding of sex work. Stories that disempower sex workers or portray them in a one-dimensional fashion can dehumanise sex workers. Where a country undergoes a law reform process, MMA notes that a shift in traditional media reports can garner a degree of public buy-in. This was the case in New Zealand in 2003 where, following the decriminalisation process, sex work agencies were advertised in newspapers. The normalisation of sex work as a consensual exchange between adults may protect sex workers' livelihood.
14. MMA has found that a considerable degree of reporting on sex work in South Africa is reactive and infrequent. Essentially, stories relating to sex work often relate to the justice system, crime and/or the assault of sex workers, and child trafficking.<sup>11</sup> Limited reporting places an undue degree of responsibility on civil society organisations ("CSOs") at the forefront of sex workers' rights to employ nuanced research and advocacy strategies. Without nuance, diversity, and context negative stereotypes remain unchallenged.

## **SUBMISSIONS ON THE ROLE OF SOCIAL MEDIA PLATFORMS**

### **Striking a balance between content moderation and sexual expression**

15. Digitisation has expanded the channels through which sexual services may be offered. In the South African context, there is limited data regarding the use of Information and Communications Technologies ("ICTs") in enabling online sex work, also called "platform sex work". This poses some challenges in understanding the obstacles faced by platform sex workers. One challenge that MMA has investigated is the tension between content moderation and sexual expression.
16. MMA supports the notion that content moderation is a useful mechanism when it is used for curbing harmful online behaviour, protecting children, and preventing the flow of harmful

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<sup>11</sup> As noted earlier in these submissions, the distinction between sex work and CSE is of utmost importance.

material to children.<sup>12</sup> MMA has demonstrated its commitment to this cause through, for example, managing the Real411 platform.<sup>13</sup> This is a publicly accessible platform that enables members of the public to report concerns about online harms such as disinformation, hate speech, incitement to violence, and harassment. MMA also recognises that excessive or undue content moderation can foster censorship.

17. When it comes to platform sex work, opaque content moderation practices can unreasonably restrict sex workers' ability to perform their jobs. Such practices include shadow-banning – the act of decreasing a particular account's visibility without notification to the account owner – and the inconsistent enforcement of community guidelines. The discussion document notes that these practices disproportionately impact members of the LGBTIQI+ community, people of colour, plus-sized individuals, and sex workers (including those who seek to educate digital communities about sex work).
18. MMA submits that regulation of online content must be proportionate and rational. Where regulatory bodies are established to govern online content, these bodies should derive their mandate and powers from a clear legal framework. Further, the scope to review or appeal decision-making by such bodies promotes transparency and accountability.

### Privacy-related concerns

19. While platform sex workers may choose to share specific personal information, this does not mean that they forego their right to privacy. The decision by the Supreme Court of the United States to overturn *Roe v Wade* raised concerns about women's autonomy even in digital spaces, including in their private interactions on so-called sex tech and fem tech platforms.<sup>14</sup> With this in mind, MMA submits that social media platforms bear the responsibility of complying with the applicable data privacy framework.

### SOLUTIONS AND RECOMMENDATIONS

20. MMA implores the Special Rapporteur to distinguish between grounding concepts such as “sex work”, “human trafficking”, and “child sexual exploitation”. The language used in discussions on sex workers impacts public perception and, in turn, the treatment of sex workers. This is captured in a quotation lifted from a strategic media toolkit by the Red Umbrella Project—

“At best, interactions with media make it possible for people in the sex trades to be heard on a large scale and participate in public dialogue about issues and policies that impact our lives. At their worst, interactions with media (consensual or not) can destroy life as we know it causing us to lose friends, family, housing, livelihoods, and more.”<sup>15</sup>

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<sup>12</sup> CRC, General Comment No. 25 (2021) on children's rights in relation to the digital environment CRC/C/GC/25 (2021) at para 56.

<sup>13</sup> See <https://www.real411.org/>.

<sup>14</sup> Crockford and Wessler “Impending threat of abortion criminalization brings new urgency to the fight for digital privacy” ACLU (2022) (accessible [here](#)).

<sup>15</sup> Red Umbrella Project Media Guide “Speak UP!” (2018) (accessible [here](#)).

21. Accuracy and context are key tenets of responsible media reporting. The duty of care applies in stories pertaining to sex work. To tackle one-dimensional, harmful stories about sex workers, the voices of sex workers should be incorporated where possible. Further, accessible training should be developed for journalists who report on sex workers. Where inaccurate or negligent reporting patterns are established, relevant regulatory bodies must swiftly deal with this. Where there are instances of disinformation or other forms of online harms perpetuated, these may be reported on platforms such as Real411.
22. Social media platforms should evaluate their practices pertaining to content moderation and platform sex work. We submit that they make such policies public and ensure they balance rights appropriately. To the extent possible, human bias should be minimised and mitigated. MMA takes the view that meaningful engagement with platform sex workers is a useful way to dissect how excessive content moderation impacts them.
23. Despite forming part of the private sector, social media platforms must safeguard platform sex workers' right to dignity, freedom of expression, and privacy. This means acting in accordance with applicable domestic privacy frameworks and international best practice. Sex workers are at liberty to disclose only the personal information that they consent to sharing.
24. On a broader note, MMA submits that further investigation regarding the challenges faced by platform sex workers is necessary. Such investigation should be mindful of how the multiple and intersectional forms of discrimination compound the experience of sex workers. Factors such as age, race, religion, disability, ethnicity, social and economic status, or sexual orientation are necessary considerations.
25. In closing, MMA appreciates the opportunity to provide this submission to the Special Rapporteur. Please do not hesitate to contact us should you require any further information.

**Media Monitoring Africa  
Johannesburg, 2024**