

Sex workers need saving from 'saviours' more than anything else: Study

DNA dnaindia.com/india/report-sex-workers-need-saving-from-saviours-more-than-anything-else-study-2590434

March 3, 2018

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Updated: Mar 3, 2018,
11:11 PM IST

A new study released on the occasion of International Sex Workers Rights Day, has found that “rescue and restore missions have not only proven to be indiscriminate, violent, and destructive of invaded communities but have also been ineffective in addressing the problem of minors in sex work and adult persons forced into sex work.” Pointing out how discussions on anti-trafficking measures have often been overshadowed by debates on prostitution per se as violence and slavery of women; and further muddled by a conflation with sexual exploitation of children, the study conducted by the sex workers' collective Veshya Anyay Mukti Parishad (VAMP), the NGO SANGRAM in India and Rights4Change based in Netherlands says, “Anti-trafficking initiatives have been largely responsible for the conflation of trafficking and sex work, leading to an overriding conception of sex work itself as ‘violence,’ ignoring violation of the human rights of sex workers and trafficked persons.”

The unique study, which had Saheli HIV/AIDS Karyakarta Sangh and Aadhar Bahuddeshiya Sanstha, Maharashtra; Uttara Karnataka Mahila Okkutta, Karnataka; Kerala Network of Sex Workers, Kerala and Srijan Foundation, Jharkhand partnering on it, delves into the experiences of women who are raided, rescued and rehabilitated as part of anti-trafficking strategies, comes against the backdrop of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018, which was recently approved by the Cabinet. The study conducted by sex workers themselves using participative research tools, analyses women's narratives along with quantitative data about the strategies of raid, rescue and rehabilitation deployed to combat trafficking of women into sex work. The study which unravels the impact of laws and policies on lives of sex workers centres around experiences of women ‘rescued’ in raids, ‘rehabilitated’ for varying periods of time, and are now back in sex work. These complex narratives show a non-linear relationship between trafficking and the decision to continue in sex work.

Meena Seshu of the National Network of Sex Workers who spoke to DNA about the study said, “This research is an attempt to the forefront the experiences of women in sex work who have been raided, rescued and rehabilitated. We examine women’s narratives along with quantitative data about the strategies of raid, rescue and rehabilitation deployed to combat trafficking of women into sex work. The study unravels the impact of laws and policies on the lives of sex workers. We centre the research around experiences of women ‘rescued’ in raids, ‘rehabilitated’ for varying periods of time, and are now back in sex work. These complex narratives show a non-linear relationship between trafficking and the decision to continue in sex work.”

The study highlights how India is a signatory to most of the major human rights treaties and conventions and periodically reports on their implementation status. “In recent years, sex workers and activists have engaged with treaty body reporting mechanisms to strengthen the articulation of a human rights framework within the country on sex work. The emerging rights discourse at the global and national levels argues that efforts to respect, protect, fulfill and promote the human rights of sex workers need to be premised on ensuring their rights as citizens under the Constitution,” it says and adds, “However, India has failed to recognise the marginalisation, vulnerabilities and human rights of sex workers. Anti-trafficking policies in India, in particular, the Immoral Traffic (Prevention) Act, 1956 (ITPA), conflate trafficking and sex work, fail to protect trafficked persons, thus leading to increased violence against sex workers.”

Paradoxically, despite the enactment of the ITPA in the decade following Independence, what exactly constitutes trafficking was not defined in any of the Indian laws prior to 2013. The ITPA in action impacts the lives of sex workers by criminalising work; criminalising family and the right to raise children; the right to privacy; unfair or forced eviction and removal from homes or any other place; and by invalidating adult consent. The study analysed the gap between the letter of the laws relating to trafficking and the manner in which the cases are interpreted and how they are decided, based on the subjective interpretation of judges.

Summary of findings:

- The bedrock of the problem is the law, The Immoral Traffic Prevention Act (ITPA) which in its name itself conflates ‘immorality’ and ‘traffic’ in women, the interpretation on the ground being an anti-sex worker approach.
- Analysis of legal cases in Indian High Courts and the Supreme Court from 2010-17 revealed an increase in the number of cases, possibly indicative of lobbies advocating the abolition of sex work invoking law as part of their strategy.
- The working of the legal machinery including the interpretations, orders and judgments of courts are coloured by the moral disapproval of sex work and end up infantilising adult women by deeming them to be ‘safe’ only in the custody of their families; criminalising breadwinners

by making it illegal to “live off the earnings of a sex worker; and impacting not only the livelihoods, but also the safety net for sex workers by criminalising ‘third parties’ such as brothel keepers and client procurers.

- Law enforcement mechanisms are weighted against sex workers, and the police often use the law to justify violence, incarceration, fines and extortion, and the legal system holds out little hope.
- Arbitrary police action during raids, with scant respect for the rights of sex workers and those residing in the buildings deemed to be brothels was common.
- The entire process of the raid smacked of a notable disregard for the purported victims who were being rescued. Humiliation, verbal and physical abuse routinely accompanied these raids.
- Misuse of the media and violation of the right to privacy, with the police and the media in collusion in order to humiliate the women and sensationalise stories of the raid.
- Sexual coercion and extortion of money from sex workers by the police was used as a sort of insurance against being raided or mistreated by the police.
- Arbitrary use of the law to detain sex workers who were carrying condoms has an adverse impact on HIV prevention, and forcible testing after being picked is against the law, as is publicising results of HIV status.
- The impunity with which police inflict violence on sex workers allows other members of the public to do the same.
- Police excesses form a common theme, in some cases amounting to forced labour and even torture-like treatment in police custody. The entire process of the raid smacks of a notable disregard for the purported victims who were being rescued. Humiliation, verbal and physical abuse routinely accompanied these raids.
- Systematic shaming of sex workers continues into court appearances, where even before any legal process begins, the women detained are treated as criminals with no right to redress. They are also forced to ‘accept their guilt’ even if the cases are fake.
- Women ‘rescued’ from sex work are sometimes forced to provide sexual services in rehabilitation homes and thus become “victims of rehabilitation”.
- “Skill development” was ineffective in the context of a burgeoning corporate economy where skills such as sewing or making papad and pickles are economically unsustainable.
- Procedural aspects of the courts are stacked against sex workers, who are forced to borrow large sums of money to extricate themselves, at high-interest rates.

- Sex workers upon release are faced with massive debts due to the loss of livelihood during the period of incarceration. They are then subjected to debt bondage or other forms of exploitative practices, ironical for a process seeking to save women from exploitation.
- Upon release, sex workers are more vulnerable and under the control of brothel owners who have paid large sums to the police to prevent further raids. Mobility and attending regular health check-ups is also compromised.
- Collectives of sex workers have worked out effective strategies to combat the trafficking of girls and women into sex work.
- 0.82% (2 out of 243) were minors at the time of the raid, the rest were adults.
- 79% (193 out of 243) of the women stated that at the time of the raid they were voluntarily in sex work and had not wanted to be “rescued.”
- 36% (13 out of 36) of women who had been trafficked were currently doing sex work and stated that they wanted to remain.
- 77% (168 out of 218) women who were released, returned to sex work.