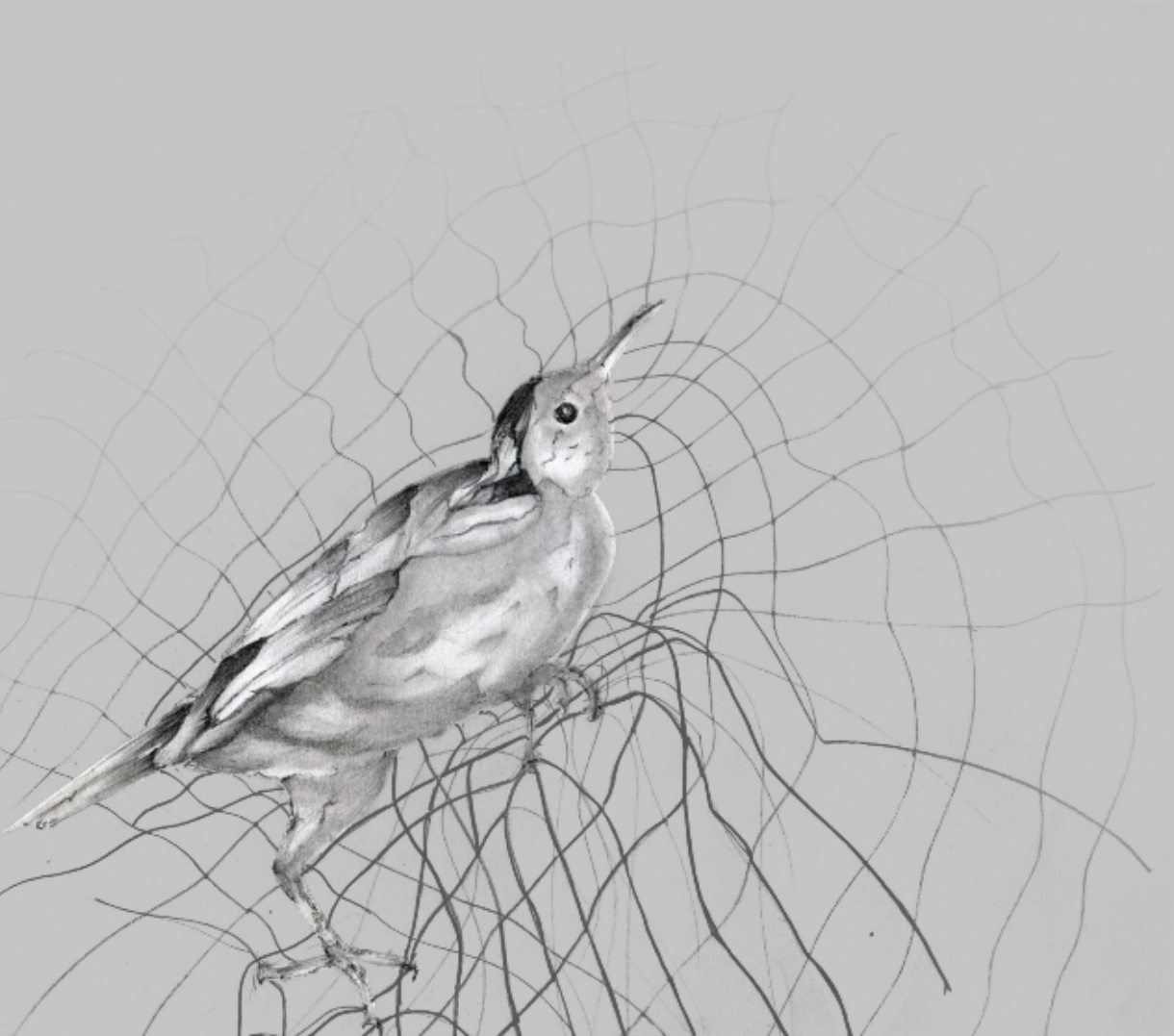


RATDED

*How Anti-trafficking Strategies Increase
Sex Workers' Vulnerability
to Exploitative Practices*



Summary

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. 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 the violation of the human rights of sex workers and trafficked persons.

This has led to a division between anti-trafficking organizations on the one hand and sex workers' rights organizations on the other. This division has also led to strategies that advocate the abolition of sex work rather than protecting the rights of women in sex work. The anti-trafficking discourse also tends to invalidate the narratives of millions of women migrants. Safe migration and the right to choose a livelihood continue to be hindered by narrow conversations on morality and culture.

The present research is an attempt to 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 the experiences of women who were '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.

Context

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, fulfil and promote the human rights of sex workers needs to be premised on ensuring their rights as citizens under the Constitution. 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: criminalizing work; criminalizing 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.

The Study

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.

The research was an outcome of the partnership between human rights activists, human rights research agencies and sex worker collectives in India. The research was led and conducted by the sex worker collective Veshya Anyay Mukti Parishad (VAMP), the NGO SANGRAM in India and Rights4Change based in Netherlands. The study partners in India were Veshya Anyay Mukti Parishad, 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. The study aimed to:

- Understand the application of the international human rights framework to sex workers in India.
- Enable sex workers to understand the human rights framework and participate meaningfully in the data collection and analysis process.
- Identify the gaps between the stated rights for all citizens and their application in the lives of sex workers.
- Collate the experiences of violence and violations faced by sex workers.
- Document and analyse how raids and rescue initiatives impact the lives of sex workers.
- Analyse through community narratives how anti-trafficking laws and policies are applied to adult consenting sex workers.

The Research

VAMP and SANGRAM developed the framework and selected the research team from sex worker collectives in Jharkhand, Karnataka, Kerala and Maharashtra, which constituted the study sites. A training workshop 'Assessing the Impact of Anti-Trafficking Laws on the Human Rights of Sex Workers' in June 2015 laid down the theoretical framework. A 'Community Research Guide' encapsulated the methodological aspects and shared with the peer researchers.

The study employed the Right Guide, a tool to investigate and analyse the human rights effects of anti-trafficking laws and policies, link these to the human rights obligations of the government, and use the outcomes to more effectively advocate for rights-based and evidence-led policy reforms. The Right Guide – translated into Hindi and Marathi – is built on the principles of: state accountability; knowledge/evidence-based action; participation and bridging movements and building alliances.

The study was conducted using primary sources including focus group discussions (156 participants in 14 FGDs), survey (243 participants) and interviews (23) in all four states. Secondary sources included a scan of judicial decisions, laws and treaty

The study employed the Right Guide, a tool to investigate and analyse the human rights effects of anti-trafficking laws and policies, link these to the human rights obligations of the government, and use the outcomes to more effectively advocate for rights-based and evidence-led policy reforms.

documents and India reports to the UN bodies. Besides the ITPA judgements in cases under the Indian Penal Code, Juvenile Justice Act and other laws were also analysed. Right to Information applications were also used to access data.

The research studied the impact of anti-trafficking laws on sex workers who functioned in a range of settings: rural and urban; streets, brothels and lodges; as well as 'hidden' sex workers who did not openly do sex work. Participants of the study were identified based on these criteria. The research was conducted in sites where sex workers' collectives were active so that they could take forward the findings in campaign strategies beyond the research period. The preliminary findings were presented at a validation meeting with the researchers and the members of the partnering collectives. Inputs and recommendations were discussed and the findings incorporated into the research.

Data was collated for 243 women who were raided between 2005 and 2017 in four towns of Maharashtra: Kolhapur, Jalgaon, Pune and Sangli through interviews and group discussions, home visits and visits to rescue homes.

The next phase of the research carried out with women who were tracked after having been discharged/released or had escaped from correction homes, centred around the experiences of women who are in sex work of their own volition, who were 'rescued' in raids, 'rehabilitated' for varying periods of time, and their work choices after being released from the rescue homes.

The Collectives, CBOs and NGOs working in the brothels collected data

of the raids and followed up women who had been picked up. In Pune, community researchers spoke with individuals who had been raided and released from rescue homes. They also filed Right to Information petitions to ascertain the status of those in rescue homes and visited rescue homes to speak with the women. Community researchers held group discussions as well as individual interviews with the women who were picked up in raids in the area.

Sensitivity was exercised because many women interviewed had given undertakings and signed affidavits to the court or rescue NGO that they would leave sex work as a pre-condition for release. Care was taken to maintain confidentiality and mask the identities of some participants.

Findings

The study was a search for evidence to answer crucial questions: If women entered sex work by force then why would they want to return to sex work voluntarily? If they entered because of lack of skills to do other jobs, why did they return after they were taught skills that could have helped them earn? If they entered sex work due to 'force of circumstance' why would they return when those circumstances had changed for the better? If they entered because of deception, lure, by unscrupulous persons who they trusted, why would they return when they were given a chance to make a 'new' life? If they entered because of lack of life choices, why would they 'choose' to return?

The following is a summary of research findings:

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.

Moralistic and arbitrary laws

- 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 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 bread winners 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 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 mis-treated 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.

Raids and the aftermath

- 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.

Rescue : Myth of the better life

- 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, which is ironical for a process that seeks 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.

Combating Trafficking through Collectives

- Collectives of sex workers have worked out effective strategies to combat the trafficking of girls and women into sex work.

An overwhelming percentage of sex workers who had been picked up and 'rescued' in raids had returned to sex work after release. The returnees to sex work included both those who had earlier been trafficked as well as those who had entered sex work of their own volition. Post-raid and rescue, many had returned to sex work at great risk to themselves, given that they had signed undertakings that they would quit sex work.

What do these
numbers
tell us, and are we
willing
to **listen**
to the **women**
behind the **statistics?**

1

0.82% (2 out of 243) were minors at the time of the raid, the rest were adults

2

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".

3

36% (13 out of 36) of women who had been **trafficked** were currently doing sex work and stated that they **wanted to remain**.

4

77% (168 out of 218) women who were released, **returned to sex work**.

End Note : Highlights

The police, NGOs and others involved in ordering and conducting raids are generally not sensitive to the complex trajectory of the individuals they encounter during raids. The persistence of the 'victim mode' runs through the entire enterprise, along with a refusal to listen to those who are purportedly being rescued. Contrary to one of the usual justifications put forth for raids – minors in sex work –, the research found that only a minuscule percentage of those raided were minors. Additionally, the research revealed that an overwhelming percentage of sex workers who had been picked up and 'rescued' in raids had returned to sex work after release. The returnees to sex work included both those who had earlier been trafficked as well as those who had entered sex work of their own volition. Post-raid and rescue, many had returned to sex work at great risk to themselves, given that they had signed undertakings that they would quit sex work.

The evidence from this study indicates 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. Generations of police raids have not been able to combat the menace of trafficking in persons.

The only light at the end of this dark tunnel comes from the collectives of vigilant sex workers who are organizing themselves to root out the violence and abuse in their own lives and that of minors and women trafficked into sex work. In any community, the idea that a rescue can be orchestrated from the 'outside' using an oppressive police force that incites violence rather than protection, compounds the problem.

The strategy of raid and rescue without the participation of women in sex work from that particular brothel or community offers no protection to the women forced into sex work. This would perhaps be more evident if the voices of the women at the centre of the debate are amplified.

This research was an outcome of a partnership between human rights activists, human rights research agencies and sex worker collectives in India. The research was led and conducted by the sex worker collective Veshya Anyay Mukti Parishad (VAMP), the NGO SANGRAM in India and Rights4Change based in Netherlands. The study partners in India were Veshya Anyay Mukti Parishad, 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.

The study was a search for evidence to answer crucial questions: If women entered sex work by force then why would they want to return to sex work voluntarily? If they entered because of lack of skills to do other jobs, why did they return after they were taught skills that could have helped them earn? If they entered sex work due to 'force of circumstance' why would they return when those circumstances had changed for the better? If they entered because of deception, lure, by unscrupulous persons who they trusted, why would they return when they were given a chance to make a 'new' life? If they entered because of lack of life choices, why would they 'choose' to return?

