

Sex Work is Dignified Work



“Sex Workers are the First Responders Against Human Trafficking,” NNSW

Today, on the [World Day Against Trafficking in Persons](#) observed by the United Nations, the National Network of Sex Workers (NNSW) affirms its commitment to end the heinous crime of trafficking in persons. We state that organised collectives of sex workers are the most effective first responders at the community level, to prevent, identify and redress trafficking in women and children into sex work. [Strategies](#) where sex workers have been made stakeholders in the task of combatting trafficking, have been found to be more effective than a mere law and order approach.

Legal remedies to eliminate trafficking in persons have been found lacking due to their focus on the victims rather than the perpetrators of the crime. By reducing trafficking to a law and order issue rather than one rooted in the changing socio-economic realities, anti-trafficking laws in South Asia largely end up further criminalising and incarcerating persons who are not trafficked i.e. the poor, the beggar, the sex worker, the transgender, the bonded labour, the juvenile, the surrogate in the name of prevention, rescue and rehabilitation instead of giving them justice.

Across the South Asia region, the conflation of ‘trafficking’ with sex work in legal/criminal procedures and social intervention programmes have adversely affected migrant women who engage in sex work (defined as provision of sexual services) as gainful work. Migrant women workers engaged in sex work are not recognised as workers and do not come within the ambit of social security measures for unorganised workers. They often do not possess identification documents required to access citizenship rights. They are often wrongly identified as victims of trafficking and subjected to further harassment which in turn deprives them of mechanisms to access justice. The framing of workers as victims of trafficking precludes the application of the labour rights framework to their work, which results in the lack of redressal of unfair working conditions, violence within work among other rights violations.

There is ample evidence of the ineffectiveness and harm of ‘rescue, raid and rehabilitation’ on adult sex workers under the Immoral Traffic Prevention Act (ITPA) in India where they have been at the receiving end of laws and policies that have been blindly applied to them. This is despite more enlightened jurisprudence via the apex court. It is worth noting that the Supreme Court of India has recognised ‘decisional autonomy’ as per of the ‘right to privacy.’ This autonomy includes the freedom to choose the nature of one’s work and whom one wishes to associate with. This is particularly relevant for sex workers, who engage in such work in exercise of their decisional autonomy. Anti-trafficking legislations thus must expressly exclude adult consenting workers who must be protected to continue working in their chosen work.

Trafficking of persons into forced or coerced labour (including sexual exploitation) should not be equated with sex work undertaken by consenting adults. The outgoing UN Special Rapporteur on trafficking in persons, Maria Grazia Giammarinaro, in her Manifesto has recommended that, *“States should introduce in their legislation a non-punishment provision to ensure that victims of trafficking, slavery and forced labour are not charged, detained or prosecuted for illicit activities in which they have been involved as a direct consequence of their situation of victims.”*

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Furthermore, States should decriminalize sexual services and all related behaviours not amounting to exploitation as defined by the Palermo Protocol, and irregular entry or irregular stay, where such behaviours currently constitute a crime."

It must be noted that the 7th Report of the Panel on Sex Work, constituted by the Supreme Court in the *Budhadev Karmaskar v. State of West Bengal*, Criminal Appeal No. 135 of 2010 included recommendations such as adopting community-based rehabilitation, i.e. alternatives that are not contingent on trafficked women staying in state-run 'homes' and also revising laws like the ITPA so as to distinguish between those coerced into sex work and those who engage in it voluntarily, so that interventions are tailored to those who need them. However, no such provision has yet been incorporated into law.

The UN has played a major role in influencing sex work policy globally through various international instruments, the most recent of which is the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which while condemning the exploitation of the prostitution of others and other forms sexual exploitation also extended the definition of trafficking to other forms of labour exploitation such as *forced labour or services, slavery or practices similar to slavery, servitude*.

While UN Conventions could potentially promote sex workers' rights, an interpretation of their provisions has proved detrimental in many circumstances due to the on-going conflation of sex work and trafficking. Since this conflation continues to derail discussion about how to advance sex workers rights into a moral and ideological debate over sex work/prostitution: decriminalisation, regulation and abolition, it is important to understand how policies of international bodies impact different areas of life.

Anti-trafficking laws and policies must be under-girded by an understanding of structural issues like poverty, lack of equal opportunities and skewed development policies. The aspiration to move and access better living conditions forces persons to move in an unsafe manner and accept work in a criminalised environment for instance in sex work or as undocumented workers abroad. Adopting a carceral approach that criminalises such vulnerable individuals instead of putting in place comprehensive policies, programmes and measures that address the factors will render persons even more vulnerable to trafficking.

Such analysis is crucial given the COVID-19 pandemic which has exacerbated existing inequalities and poverty the world over, the adverse consequences of which are already visible in South Asia. These conditions are likely to get worse with the disturbance in global markets and the lack of political will, adequate laws or social safety nets for the most marginalized. The increase in poverty will mean an increase in the numbers of persons entering sex work and international instruments especially those addressing trafficking must acknowledge that sex work is work that cannot be entirely viewed within the ambit of trafficking.

It is only when sex workers are part of the war that an end can be brought to human trafficking.
#SexWorkersAgainstTraffickers

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