

VIOLENCE FACED BY SEX WORKERS IN INDIA 2019. National Network of Sex Workers (NNSW), India¹

UN Bodies such as the CEDAW Committee² and the Special Rapporteur on violence against women (SR VAW) have consistently expanded the rights of women in sex work over the years, recognising their right to be free of violence, exploitation and criminal legislation. In the specific context of sex workers in India in 2014, the Special Rapporteur on Violence Against Women observed that sex workers in India continue to face a high degree of violence from state and non – state actors and the lack of avenues for legal redress. She also highlighted the forcible detention and rehabilitation of adult women in sex work. She observed that conflation of sex work with trafficking had led to coercive rehabilitation measures by the State. In its concluding observations to India in July 2014, the Committee observed that women in sex work were being persecuted as a result of measures to address trafficking, through measures such as raid and rescue operations. The Committee called on the Government to review the Immoral Traffic Prevention Act. Despite these observations sex workers continue to bear the brunt of extreme State violence, lack of legal redress and apathy in registering complaints of violence.

Challenge of the legal framework that criminalises sex work

Indian police and judiciary continue to use the provisions of the Immoral Traffic Prevention Act; to arrest, detain adult consenting sex workers, fine them for doing sex work, incarcerate them in rescue homes without access to legal remedies, access to visitation rights by her children and family.

Amended sections of the criminal law (Section 370 Indian Penal Code) have effectively criminalised demand leading to large scale harassment of sex workers and their clients in direct contravention to the stated objectives of the Justice Verma Commission that drafted the legislation.

Violence of Forced Raid and Incarceration in Rescue homes

The largest State sponsored violations of sex worker's human rights are the forced raid, rescue and incarceration in rehabilitation homes. Despite women stating that they are consenting sex workers, they are picked up often in violent operations conducted by the police and NGOs. Private organisations continue to operate with impunity conducting raids and rescue missions against sex workers without accountability and in violation of all human rights. A research study³ conducted between 2016- 17, by SANGRAM and its partners found that over 70% of women in sex work who had been forcibly raided had returned to sex work after release. Many sex workers reported that their families had taken large debts to survive when they were incarcerated and repaying these debts had pushed them into risky working conditions. Sex workers in Amalner reported that the police lit fire to their houses

¹ The National Network of Sex Workers, NNSW comprises 63 organisations including those led by sex workers and NGOs that believe sex work is work with a membership of over 150000 female, male and transgender sex workers from eight states. Contributions for this submission were made by Saheli Sangh (Pune), Karnataka Sex Workers Union, Sangama, Uttara Karnataka Mahila Okkuta (Karnataka), Vadamalar Federation, SIAAP (Tamil Nadu), Sadhane Mahila Sangh (Bangalore), Me and My World, WINS (Andhra Pradesh, Telengana), Aadhar Sanstha (Amalner), Ganika Mahila (Nagpur), Jwala Shakti Samuh, Srijan Foundation(Jharkhand), Mahila Jagruti Sevabhavi Sanstha (Parbhani), VAMP (Maharashtra), Muskan Sanstha (Sangli), SANGRAM Sanstha (India).

² Repeal legislation that criminalises women in prostitution. [General Recommendation 35, Para 31]. Sex workers need the equal protection of laws against rape and other forms of violence." [General Recommendation 19, Article 6, para 15]. State parties should describe the measures, that have been taken to protect women engaged in prostitution... Effectiveness of these measures should also be described. [Specific recommendations – 24, h; GR 19]. Criminalisation of prostitution makes it harder for women to access justice. States must abolish discriminatory criminalisation and review and monitor all criminal procedures to ensure that they do not directly or indirectly discriminate against women [General Recommendation 34, para 9, 49, 51]

³ Raided: How anti – trafficking strategies increase sex worker's vulnerability to exploitative practices; Aarshi Pai, Laxmi Murthy, Meena Seshu, Rakesh Shukla; SANGRAM Sanstha; March 2018. <https://www.sangram.org/resources/RAIDED-E-Book.pdf>

and destroyed them to prevent them from speaking out against the violence of raids⁴. There was tremendous fear of the police amongst the women.

A recent study⁵ conducted by Ganika collective with 82 sex workers in Nagpur, found that 70% of them had been picked up twice in raid operations conducted by private Pune based NGOs and police. 32% of the women revealed that they had been picked at least four times in the raids. 58% women shared that they had been sent to rescue homes as a result of these raids. 14 women shared narratives of violence during the raids, where they were pulled by their hair, slapped, abused. The women shared that these operations were conducted by cordoning off the brothel areas and herding women out of their homes and treating them as criminals⁶. They also shared instances of being abused verbally and physically inside the rehabilitation home by the warden and other staff members. Five women shared that they were able to obtain release from the rehabilitation homes by paying money to the police or staff members. Women in both research studies shared that they were separated from their children and families, refused legal assistance.

Similar raids were conducted in the red -light area in Pune in January 2019 when 167 women were picked up in raids and confined⁷. The women were threatened with incarceration in rescue homes unless they cooperated with the police and shared their identification in the nearest police stations⁸.

Sex workers from Andhra Pradesh and Telengana shared testimonies of being forcibly rescued and sent to a shelter home run by an NGO and being incarcerated for months in poor living conditions and abused by the staff⁹. One of the women shared that she had been incarcerated for five months in a rescue home in Hyderabad and not allowed to meet her three young children¹⁰. The women were given left over food and when the sex workers protested, they were kept in dark rooms and beaten. Her children were forced to beg and live on the street when she was in the rescue home. Another woman shared that she was able to get out of the rescue home after paying Rs. 50,000 as bribe¹¹. Another sex worker shared how the inmates were beaten with belts attached to a wooden stick if they protested¹². Shelter home staff in Andhra Pradesh use the pretext of making a “home report” to visit the sex worker’s home and extort money by threatening to reveal the sex worker’s identity to her family. One woman was forced to pay Rs. 300,000 to keep her identity a secret¹³. In another case, the sex workers identity was revealed to the community and she was ostracised. A recent study of fourteen shelter homes¹⁴ conducted in Andhra Pradesh and Telegana has found that sex workers were regarded as criminals in these homes and was forced to raise huge sums of money to pay middlemen in these homes. Sex workers were “silenced” by the wardens of the shelter homes and discouraged from sharing about the abuse they faced.

Sex workers state that they were forced to leave their homes, brothel areas and villages and “go underground” to escape from the “raiding NGOs and police”. Often this forced disappearance extends anywhere between six months and a year. In some cases, the women moved permanently, preferring to shift their homes rather than be caught in repeated raids¹⁵.

Violence by Law enforcement

⁴ Case studies V#33, V#34, V#35 Adhar Sanstha, 2019

⁵ Impact of Raids, rescue operations on sex workers: Survey of Ganga Jamuna red light area, Nagpur, January 2019, Ganika Mahila Sanstha, Nagpur

⁶ Case studies V#29, V#30, V#31, V#32, V#33, Adhar Sanstha, 2019

⁷ Case studies V#40, V41, Saheli Sangh, 2019

⁸ Case studies V#37, V#38, V#39 Saheli Sangh, 2019

⁹ Case studies V#46, V#47, V#48, V#49, V#50, V#51, V#52, V#53, V#54, Me and My World, 2019

¹⁰ Case study V#49, Me and My World, 2019

¹¹ Case study V#50, Me and My World, 2019

¹² Case study V#51, Me and My World, 2019

¹³ Case study V#53, Me and My World, 2019

¹⁴ Assessing the impact of rescue and rehabilitation for victims of human trafficking in Andhra Pradesh and Telengana; Walters (CSULB), Raghavendra (WINS)and Schneider (UChicago), 2019.

¹⁵ Raided. See supra Note 3

Criminalisation of aspects of sex work have made women vulnerable to large scale abuse and violence by the law enforcement. In Bangalore, following the appointment of a new Deputy Commissioner of Police, the constabulary has started ruthlessly beating sex workers standing in market places¹⁶. Women stated that they were chased by the police and if they were caught, they were being detained in police stations without being arrested, their jewellery taken away and threatened with disclosure of identity. One woman living with HIV/AIDS stated that she was physically abused and humiliated when the police learnt of her positive status. Sex workers fear reporting cases of police violence since the threat of disclosure of identity, further abuse looms large. Sex workers from Jharkhand and Tamil Nadu report that they face tremendous abuse from the police when standing in public spaces or if they refuse to pay bribes.¹⁷

Violence at the workplace

Another aspect of the criminalised status of sex work is the lack of protection at the workplace from exploitative agents¹⁸, violent clients¹⁹, refusal to pay after providing services²⁰. Sex workers are unable to file complaints against brothel owners or agents who exploit them or abuse them since the police are more likely to detain or abuse them²¹.

Societal Violence and abuse

Sex workers face a lot of violence including rape²² from partners, neighbours²³, landlords and goons²⁴. In one instance, after the identity of a sex worker was revealed, her daughter was sexually harassed by the school teacher which resulted in tremendous trauma to the child²⁵. However, sex worker fear approaching the police since they fear that they are most likely to be blamed for the incidents²⁶.

Recommendations

Full decriminalisation of sex work. Read down criminal and civil laws, that seek to criminalise activities associated with sex work like soliciting, working in brothels, supporting families through the income from sex work.

Make sex work safe by proactively creating an environment wherein sex workers are protected from violence by State and non-state actors.

Ensure safe working conditions by formulating protective policies and legislation drafted with sex workers.

Stop the violence of forced raid and rescue of adult consenting sex workers

Ensure greater accountability from organisations that are undertaking forced raid and rescue operations of adult sex workers in the name of anti -trafficking initiatives. Apply criminal laws against such organisations for the violence unleashed on sex workers and their rights violations.

¹⁶ Case studies V#25, V#26, V#27, V#28, Sadhane Mahila Sangha, 2019

¹⁷ Case studies V#14, V#15, V#17 Jwala Shakti Samooh, Srijan Foundation; V#64, V#66, V#67, Vadamalar Federation 2019

¹⁸ Case study V#20, V#22, V#23, MJSS, 2019

¹⁹ Case study V#18, MJSS; V#57, Vadamalar Federation; V#10, V#9 KSWU 2019

²⁰ Case study V#6, KSWU, 2019

²¹ Case study V#14, V#16, Jwala Shakti Samooh, Srijan Foundation, 2019

²² Case study V#12, UKMO, 2019

²³ Case study V#55, V#56, V#58, V#59, V#60 Vadamalar Federation, 2019

²⁴ Case study V#57, Vadamalar Federation, 2019

²⁵ Case study V#19, MJSS, 2019

²⁶ Case study V#14, V#16, Jwala Shakti Samooh, Srijan Foundation; V#12, UKMO; V#8, KSWU 2019