

RIGHTS

Experts Oppose Proposed Anti-Trafficking Bill, Ask for It to Be Sent to Standing Committee

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Instead of addressing trafficking, the Bill instead introduces a wide-ranging host of problems, experts have said. Representative image. Credit: Facebook/STOP NGO India



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been drafted by the Ministry of Women and Child Development.

A coalition consisting of various stakeholders, including lawyers, sex workers' collectives, transgender rights activists and groups working on child rights, labour rights and civil liberties has categorically opposed the Bill in its current form.

At a press conference in Delhi, which was live streamed by *The Leaflet*, representatives of these groups asked that the Bill be presented before a parliamentary standing committee instead of being passed in its current form.

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Impact on the lives of sex workers

Nisha Gulur, a trans sex worker who is part of the National Network of Sex Workers said that the Bill conflates trafficking and sex work. She said that the ministry did not hold consultations with sex workers in the process of drafting the Bill. "I am requesting the government and policymakers to have a dialogue with us. In the name of rehabilitation, you are violating our human rights."

In the last four months, the National Network of Sex Workers has held extensive consultations with people across seven states and thirty-four districts, Gulur added. On the basis of conversations with women's groups, labour groups, child rights groups, lawyers and sex workers, they formed a coalition and prepared a critique of the draft of the proposed Bill. The coalition also added recommendations. Gulur said, "I am demanding all the members of parliament – this Bill has to go to the standing committee. Don't be in a hurry to pass it. It is really unfair. We are ready to talk to you – you have to have a dialogue with us."

Gulur's trepidation stems from the fact that – among other things – the proposed Bill does not account for the consent of the person at the receiving end of its

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women who were picked up as part of raid and rescue actions in Maharashtra,

an overwhelming majority – 193 – were adult and doing sex work of their own volition. They were put in rehabilitation homes without their consent. The detrimental and sometimes fatal consequences of these raids were apparent in one case in April this year, when two sex workers lost their lives while attempting to flee a police raid.

The proposed Bill will give the state even more power over the lives of sex workers picked up in raids. Under the Bill, every district will have a District Anti Trafficking Committee that will be able to make decisions on behalf of the victims that will be final and not open to appeal in courts. It can also force the victim to be ‘repatriated’ back to her hometown, whether or not she wants to return.

Gulur says that the proposed Bill’s approach reflects “social morality, not constitutional morality.”

Even though people have freedom to migrate anywhere within India, under the proposed Bill, victims will be forced to return to towns they may have left of their own volition and may not wish to return to again. The victims incarcerated in homes would also be separated from minor children and the Bill doesn’t address their right to be reunited with their family.

“We have identified sex work as work. Who are you to decide it is immoral?” Gulur added. “As a transgender person, I had to leave my hometown and I lost education and job opportunities because of gender-based violence. By living in big cities, I found my own support systems.”

Aarthi Pai, a lawyer with SANGRAM says, “Sex workers who work of their own volition must be explicitly kept out of the ambit of the trafficking Bill. That is the only way to address the mischief and harm that can potentially be caused.”

Why is the Bill being introduced?

Experts say that it is bewildering that the bill is being introduced, because there

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There also exists the Immoral Traffic (Prevention) Act, 1956 which has also **been criticised** for conflating trafficking with sex work and has been found to be weaponised against sex workers. Meena Seshu, an activist with SANGRAM says, “The proposed Bill follows the same protectionist thinking that ITPA follows. People who don’t want to be ‘protected’ are also getting picked up and incarcerated.”

Lawyer Anand Grover said, “What is the reason to introduce this Bill? A new Bill should come in to fill gaps or be comprehensive – and this Bill doesn’t do any of those things.”

Kiran Kamal Prasad, labour rights activist, said, “The very terminology of rescue and raid is very dehumanising.” Prasad said the Bill barely addressed bonded labour and that the approach of ‘rescue and rehabilitation’ is not used in the Bonded Labour System (Abolition) Act, 1976 which instead focuses on the release of the labourer from a situation of forced labour.

Instead of addressing trafficking, the Bill instead introduces a wide-ranging host of problems, experts added. For example, under the proposed Bill, even the taking of hormones by trans persons wanting to undergo gender affirmation procedures would be criminalised. It also allows for medical examination of anyone deemed a victim without addressing the need to take their consent beforehand. It can also have a potentially devastating impact on the freedom of speech and expression as it seeks to criminalise any material that “promotes trafficking of person or exploitation of a trafficked person in any manner.”

In a written critique of the Bill by the Coalition for an Inclusive Approach on the Trafficking Bill, commentators say, “The term ‘promoting trafficking or exploitation’ has wide amplitude and many actions can be construed to come within this clause. Rather than imposing a rigorous standard of actual and direct nexus with the act of trafficking or exploitation, a weaker standard of causality is imposed.”

~~The critique details the ways in which the proposed bill will further stigmatise~~

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