

In Its Haste to Rescue Sex Workers, 'Anti-Trafficking' Is Increasing Their Vulnerability

AARTHI PAI

MEENA SARASWATHI SESHU

LAXMI MURTHY

Aarthi Pai (aarthi.pai@gmail.com) is Director of the Centre for Advocacy on Stigma and Marginalisation (CASAM). Meena Saraswathi Seshu (meenaseshu@gmail.com) is the General Secretary of SANGRAM that initiated a collective of sex workers called Veshya Anyay Mukti Parishad [VAMP]. Laxmi Murthy (murthy.laxmi@gmail.com) is a journalist based in Bengaluru.

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Framing trafficking as an issue of morality wrongly assumes no woman would enter sex work of her own volition. The article discusses the experiences of sex workers picked up during raid and rescue operations, who reveal that such a strategy rarely addresses the issue of trafficking, instead it results in large-scale human rights violations.

This article is a part of the Special Feature Rethinking Trafficking Bill 2018. To read other articles in this feature, [click here](#).

The Union Cabinet of the Government of India (GOI) recently approved the Trafficking of Persons (Prevention, Protection and Rehabilitation), Bill 2018 (the bill). The bill has once

again brought into focus strategies of forced raids, rescue, rehabilitation and criminalisation as a solution to the problem of human trafficking. The government and some anti-trafficking organisations and activists involved in drafting the bill claim that it does not bring within its ambit, sex work undertaken by consenting adults. However, earlier drafts of the bill available in the public domain, coupled with experiences arising from the implementation of the Immoral Traffic (Prevention) Act, 1986 (ITPA) give rise to serious apprehensions because sex workers have consistently been at the receiving end of flawed anti-trafficking laws and policies. Unless sex work between consenting adults—sex workers and their clients—is explicitly removed from the purview of the bill, large-scale human rights violations in the name of anti-trafficking will continue to be the norm.

Sex Workers Bear the Brunt of Violence

The world over, anti-trafficking laws and policies have placed sex workers on the cusp of violence inflicted by law enforcers and anti-trafficking groups. Anecdotal information gathered by sex worker rights activists in India had long revealed that many women who are rescued and rehabilitated return to sex work. This provided us the impetus to inquire systematically into this phenomenon.

Our study (Pai, Seshu and Murthy 2018), conducted between late 2015 and 2017, aimed to document and analyse through community narratives, how raid and rescue initiatives are a impact on the lives of sex workers. In the first phase of the study, 174 women in sex work (151 participants in focus group discussions and 23 in-depth interviews) from 15 districts in Kerala, Karnataka, Maharashtra and Jharkhand shared their experiences of violence and how they coped with being raided, rescued and rehabilitated. Fourteen focus group discussions were held with 151 female sex workers who worked in a range of settings, both rural and urban and in streets, brothels and lodges. We interviewed women who openly did sex work and “hidden” sex workers who did sex work secretly.

In the second phase of the study, community researchers identified 243 women who had been picked up in raids conducted between 2005 and 2017 in five cities in Maharashtra.^[1] Detailed interviews with 23 of these 243 women were conducted using purposive sampling. The community researchers conducted interviews and participated in the analysis and validation of the research.

Our study found that violations against sex workers occurred during raids as well as during ordinary times since the law enforcement agencies can exercise arbitrary powers, validated by the ITPA. The study also revealed the adverse effects of the ITPA on the human rights of adult, consenting sex workers.

The research attempted to gather evidence in order to answer crucial questions confronting sex worker rights’ activists: If women entered sex work by force then, why would they want to return to sex work voluntarily? If they entered sex work from a lack of skills for doing

other jobs, why did they return after they were taught skills that could have helped them earn in those other jobs? If they entered sex work due to force of circumstances, why would they return when those circumstances had changed for the better? If they entered because of deception, lured by unscrupulous persons, why would they return to sex work when they were given a chance to create a new life? If they entered because of a lack of life choices, why would they choose to return to sex work?

Evidence from the research showed that the bedrock of the problem is the law and its implementation on the ground. The ITPA, with “immoral” and “traffic” in its very title, suggests that trafficking is an issue of morality rather than a criminal offence. Its interpretation on the ground therefore adopts an anti-sex worker approach since it wrongly assumes that no woman would enter sex work of her own volition.

Infantilising Adult Women

On the presumption of lack of consent, the law, through Section 17(2) of the, ITPA, states that a woman who is rescued as a consequence of raid and rescue operations can be handed over into the safe custody of her husband or parents or guardian and this includes adult women who have consented to being in sex work. A magistrate satisfied about the antecedents and suitability of the husband, parents or guardians, may issue an order granting custody to them. This section in ITPA which infantilises adult women is debilitating for women who are in sex work as adults living independent of parents or family. Many are heads of their households and primary providers for their families. In many cases, adult women do not inform their families that they are in sex work. When directed by the magistrate to produce a husband, parents and guardians in court, they are forced to contact family members in humiliating circumstances. In many cases such custody is accompanied by an affidavit of the woman undertaking that she will not do sex work in the future.

Raid and rescue is the most commonly used strategy to address trafficking in women and girls. However, the experiences of sex workers picked up during these operations reveal that this strategy rarely addresses the issue of trafficking, instead results in large-scale human rights violations, and in fact increases vulnerabilities such as falling into debt bondage and other exploitative practices. Fees to lawyers, surety for bail, bribes to officials and mounting daily expenses in the absence of income due to incarceration, force women released from correction homes to incur huge debts. Ironically, getting trapped in a cycle of debt bondage is a consequence of a raid and rescue strategy which is purportedly designed to help these women.

In the raid, rescue and rehabilitation scheme, women who want to remain in sex work are picked up and detained, which explains the high rate of returnees to sex work. Of the total sample of 243 picked up in raids, the 193 women who had voluntarily entered sex work had been forcibly incarcerated for durations ranging from up to one month (42%) to up to three years (7%). A significant percentage (11%) were still languishing in the correction homes

set up under the ITPA at the time of the study, isolated from family and friends. The indiscriminate raids picked up women who were voluntarily in sex work at and forcibly "rehabilitated" them by incarcerating them and counselling them against carrying out their livelihoods, that is, sex work. Little wonder then that the so-called rehabilitation and correction backfired and 152 of the 193 (79%) women returned to sex work.

Our research has also revealed the inherent violence of raids carried out in the name of rescue. When aided by a violent police force in collusion with outsiders--Anti Human Trafficking Units (AHTUs) or saviours in the shape of NGOs, who treat the sex worker community like criminals and believe that they are part of the trafficking nexus, there is a loss of trust and hope in the women thus rescued. The narratives and quantitative data in the study demonstrate a failure to achieve both the objectives of the raid, rescue and rehabilitation strategy: namely, rescuing victims of trafficking and creating better livelihood options and prosecuting traffickers. The evidence validates the experience of women in sex work, whose realities and experiences have not been heeded by policymakers and anti-trafficking NGOs alike.

Why Raid, Rescue and Rehabilitation Strategies Backfire

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 persistent presumption that rescued sex workers are victims runs through the entire enterprise, along with a refusal to listen to those who are being rescued. Contrary to one of the usual justifications put forth for raids—namely the presence of minors in sex work—the research found that only 0.82% (2 out of 243) of those raided were minors at the time of the raid, and the rest were adults.

Table 1: Current Status of 193 Adults Voluntarily in Sex Work at the Time of the Raid.

	Jalgaon	Kolhapur	Pune	Sangli	Satara	Total	
Active in sex work	34	41	25	26	13	139	72.02%
Came back to sex work and now left				4		4	2.07%
Died		1		8		9	4.66%
Left sex work after the raid		3		3	1	7	3.62%
Non-traceable		6	3	2		11	5.69%
Sent to Bangladesh as per rescue foundation			2			2	1.03%

Sudhar Home / Rescue Foundation			21			21	10.88%
Grand Total	34	51	51	43	14	193	

The current status of adult women who were voluntarily in sex work at the time of the raid is revealing (see Table 1). As many as 79% (193 out of 243) of the women interviewed stated that at the time of the raid they were voluntarily in sex work and had not wanted to be rescued. Additionally, the research revealed that more than three-fourths, that is, 77% (168 out of 213) women who had been picked up and rescued in raids returned to sex work after release. Post-raid and rescue, many had returned to sex work at a great risk, given that they had signed undertakings that they would quit sex work.

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. More than half, that is 55% of the rescued women who had been trafficked chose to return to sex work upon release from the correction home. More than one-third, or 36% (13 out of 36) of women who had been trafficked were doing sex work at the time of the study and stated that they wanted to remain in sex work. What do these numbers tell us, and are we willing to listen to the women behind the statistics?

The evidence indicates that rescue-and-restore missions have not only proven to be indiscriminate, violent, and destructive of sex worker communities, but have also been ineffective in addressing the problem of minors in sex work and of 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 organising 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 sex workers from a 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.

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End Notes:

[1] Data was collected by trained community researchers from the Kerala Network of Sex Workers, Uttara Karnataka Mahila Okkutta, Srijan Foundation, Saheli Sangh and Aadhar

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Bahuddeshiya Sanstha. Right Guide is a tool to investigate and analyse the human rights effects of anti-trafficking laws and policies, developed by Rights4Change, based in the Netherlands.

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