

Rights and Issues of People involved in Prostitution and Sex Work in India

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The Office of the United Nations High Commissioner for Human Rights

Introduction

While human rights violations are common throughout India, they are particularly prevalent in the lives of people involved in prostitution and sex work. Discrimination against sex workers in India is as much an issue as the discrimination faced by other marginalized groups along lines of class, caste, race or religion. Sex work is not treated as work, but as a dirty and immoral lifestyle threatening to taint the “innocent” public. The result of this stigma is the denial of basic rights for both sex workers and their families: women cannot access good healthcare and are often subject to abuse, violence and exploitation by police and government officials, while their children face harassment in schools and the workplace.

A large factor in the ill treatment of sex workers is the narrow understanding that people have of this work. The media fuels the image of women in prostitution as either overly sexual outcasts who threaten the very structure of Indian family life, or abused and exploited victims. In fact, women in sex work cannot be put into a box. While there are certainly victims of trafficking in sex work today, the majority of women in sex work consent to doing it. They have decided that making money from sex is a lucrative option for them and their families. But traditionalists cannot divorce sex from its sacred and religious implications. Indian laws and policies regarding sex work are crafted from a moralistic standpoint and people involved in sex work are defined by—and treated as—their “immoral” profession.

Perspectives on sex worker’s rights generally fall into two categories. The first is the traditionally feminist perspective that assumes that all people involved in sex work have been coerced, bribed, blackmailed or forced into the trade. No woman could “choose” to be in sex work, and making money from sex thus becomes synonymous with sexual exploitation. Following this perspective, the only approach to giving sex workers their rights is to “free” them from the trade.

The other perspective is that sex work is legitimate business and should be treated as such. Viewing prostitution as business provides a basis for organizing to solve many of the problems associated with commercial sex work. No one can deny that sex work often involves poor health, financial exploitation and physical and sexual abuse; however, these abuses are not intrinsic to sex work, but rather the result of the stigmatization and marginalization of sex workers in Indian society. Approaching sex work from a business point of view allows women and men involved in the trade to demand their business rights, human rights and occupational health and safety regulations.

This paper identifies the major human rights issues facing people involved in sex work in India in the areas of law, health, safety, and education, and emphasizes the fundamental role that stigma and marginalization play in these abuses. Furthermore, it details the ways in which current discourse and programming on HIV/AIDS has further marginalized and disadvantaged these workers.

Law

Indian law has failed to protect the rights and safety of people in prostitution and sex work. Not only does it take a moralistic approach, but it is also ambiguous, leaving sex workers vulnerable to abuses by police, government officials and petty criminals.

The main law dealing with people in sex work is the Immoral Trafficking (Prevention) Act (ITPA) of 1986 which seeks to prevent trafficking of persons in India and prohibits most outward manifestations of sex work, including brothel operating and public solicitation. It also allows for eviction of sex workers from their residences in the name of “public interest.”

While the stated purpose of the ITPA is to protect sex workers, it is more often than not used against them. The act does not specifically prohibit prostitution, but law enforcement officials have continuously used it to harass sex workers. The prohibition against “public solicitation” is particularly ambiguous. Police officers have been known to accuse workers of solicitation, and then demand bribes or free sex. Shabana, a sex worker in Karnataka who works with the sex workers’ collective VAMP, reports,

At night, the police would come to us and have sex without condoms. They would force us to have sex with them, and then go off in the morning. Then in the morning some other police constable would come and say, “Shabana, there is a case against you. Come to court with us. They would accuse us of things that we had never done. “You were standing on the road, your breast were not covered with you *pallu*, you were flirting with men on the streets. That’s why there is a case against you.”¹

As long as the law gives ultimate authority to prejudiced and corrupt police officials and government authorities, stories such as this one are inevitable.

“Rescue and Restore”

One strategy that has been used by international anti-trafficking groups and Indian law enforcement officials has been “rescue and restore” missions. These programs which seek to “rescue” trafficked and underage sex workers are sometimes successful, but always at the expense of the sex worker community.

The provisions dealing with raid and rescue make no distinction between adults and minors. The ITPA has offences like detaining a person "with or without his consent" in premises where prostitution is carried on, or taking a person, "with or without his consent" for the purpose of prostitution. Consent or lack of consent of an adult is the crucial factor in offences like abduction or illegal confinement which determines whether an act is to be dubbed criminal.

The methodology of "raid and rescue" appears to have neither worked nor been effective,

¹ From “People’s Panchayat on Resisting Stigma and Discrimination.”

besides being violative from a rights perspective. The girls/women "rescued" feel they have been "arrested" and kept in confinement. These are issues requiring urgent attention of the lawmakers but have been left untouched in the Immoral Trafficking (Prevention) Amendment Bill.

Stigma and Marginalization

Stigmatization is experienced as the major factor that prevents women in sex work from accessing their rights. Due to this discrimination, women in sex work have been denied safety, proper healthcare, education and, most importantly, the right to practice the business of making money from sex.

Safety

People in sex work are not only at a higher risk for violence, but they are also less likely to get protection from the police—often the very perpetrators of this violence.

Bhimwa, a woman working in prostitution in Sangli, Maharashtra, talks about a time when the police came to arrest her son for a false accusation.

When we told them we didn't know anything, they arrested me and took me to the police station and started to question me. They demanded a gold ring and money from me. When I said I don't know anything about it, the Police Inspector removed his belt and started to beat me mercilessly. The belt was leaving marks on my body. I was being beaten up inhumanly for no fault of mine. I begged of him. I told him that my son was being falsely implicated - but nobody was ready to listen to me. He kept beating me with the belt...Our protectors had only beaten us. Who would we go to?²

Because society deems women in sex work to be morally corrupt, they are assumed guilty in any altercation, and thus “deserving” of any violence committed against them.

However prominent, violence is not intrinsic to sex work; it is the result of discrimination and the vulnerability of the women involved. In areas where women have formed collectives and demanded their rights and power, the violence has been considerably less.

Education

Lack of education is a major inhibitor among both sex workers and their children. Studies have shown that women in sex work have considerably lower levels of education than surrounding populations. In a baseline survey of the community in Sangli,

² From “Of Veshyas, Vamps, Whores and Women,” volume 1, issue 3

SANGRAM found that less than 2% of the women have been to school of any kind, and less than 50% of that 2% have finished high school.³

But the stigma against a woman in sex work is not limited to the woman herself; it carries down to her children, regardless of their own professions or lifestyles. Children of sex workers repeatedly report discrimination, ostracization and isolation felt on account of their mothers' work. Many are embarrassed by their home lives. This has had significant effects on their education, as the drop-out rate in this community is particularly high. Children abandon school for myriad reasons, ranging from failed test scores to harassment by teachers and classmates. This harassment is incredibly debilitating for school-aged children. Many have reported that teachers take them aside and inquire about their mothers' "rate." Undoubtedly this harassment leads to lower self-esteem and a lack of motivation in school.

Health

"Our health and our children suffer the most due to this stigma and marginalization."⁴
-Bandawwa Makadwale, sex worker in Karnataka and member of VAMP

Stigma and marginalization have a profoundly adverse affect on sex workers' health. Illiteracy, ignorance and fear of the medical establishment make it difficult for women to access healthcare.

The "whore stigma" often prevents women from getting good medical treatment. Shabana reports that before the formation of VAMP, "Doctors didn't treat us properly. Government doctors wouldn't let us come in front of them."⁵ Because women have experienced so much discrimination in hospitals, they are unlikely to seek either preventative or curative care, resulting in lower levels of health. It is also well-documented that in Mumbai women in prostitution are often given HIV tests without their consent, and then not given post-test counselling.⁶

Even women who are informed of their health rights do not always have full agency in protecting themselves. Police, government officials and criminals will often force these women to have sex without condoms, threatening them with blackmail, extortion, arrest and/or violence. Women are therefore at a higher risk for health problems, with a lesser chance of accessing good healthcare.

HIV/AIDS

Current discourse on HIV/AIDS has served to further stigmatize sex workers by labeling them as "vectors" and "carriers" of the disease. Disregarding the complex web of political, economic and social factors affecting heterosexual transmission of the virus, public health officials have singled out women in prostitution as core transmitters. This

³ From "Sex Work and HIV/AIDS: The Violence of Stigmatization." By Meena Seshu for UNAIDS Global Reference Group on HIV/AIDS and Human Rights.

⁴ From "The Violence of Stigmatization"

⁵ From "People's Panchayat on Resisting Stigma and Discrimination"

⁶ Mahal, Misra, Shah. "Protecting the Right of Sex Workers: The Indian Experience. Published in *Sexuality, Gender and Rights*. Sage Publications, New Delhi, 2005

approach is a familiar one; sex workers have always been considered outcasts infecting the larger community: before with their compromised morals, and now with HIV. As a result, this “high-risk group” has an even more difficult time obtaining proper healthcare.

It is little recognized that sex workers can be powerful actors in preventing the spread of HIV. Programs in Thailand and India have shown that women in sex work are the best educators of their male clients. Unfortunately, as public health officials have begun to recognize the sex worker for her role in prevention, they have failed to include sex workers in meetings, conferences and program planning. As Meena Seshu, general secretary of SANGRAM states, “The inability to accept that the movement for prostitute’s rights can be informed by the women in prostitution and the sex workers themselves is as much a part of denial of human rights as discrimination of mainstream women on the basis of caste, class, race or religion.”⁷

Conclusion

While sex workers collectives have shown tremendous progress in asserting the rights of sex workers across India, they face an uphill battle as the country continues to foster a globalized economy. In the globalized world, sex work will become more institutionalized, functioning through escort services and will no longer need traditional street brothels. As a result, people in sex work will have to be trained as high-class escorts, requiring the intervention of commercialized business enterprise. Middle class prostitutes lose all independence; they no longer work for themselves, but now rely on others to train and prepare them for this type of industry. Poor sex workers have no place in the globalized world. The middle class men that used to buy their services have either gone to the upper class (and now only takes high level escorts) or have been downgraded by the new economy and cannot afford a prostitute. They are left with no work.

For sex workers in India to access and enjoy their rights, massive misgivings and stereotypes about sex work need to be broken down. The sex worker does not necessarily need or want to be rescued; she is not a threat to the greater “chaste” society, nor is she a walking case of HIV. Furthermore, she is capable of advocating for herself, and demanding her own rights. While they certainly face discrimination and hardships, people in sex work and prostitution do not need futile pity. They need the rest of society to recognize and fight against their own misconceptions, judgments and unfounded fears.

⁷ From “The Violence of Stigmatization.”