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## Sex can be work

By *editor*

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The irresponsible fiction that Indian sex workers are hapless dupes of traffickers who need to be rescued has gripped many quarters... So it is imperative to bring about decriminalisation of sex work.

Siddharth Dube <sup>[1]</sup>

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While writing a recent book on criminalised love and sex, I kept a short printout right by my laptop. A Tamil sex worker I had interviewed a decade earlier was recounting the consequences of being arrested in a police raid — “In the lock-up that night the policemen thrashed me with sticks. They had stripped me naked and hit me most on my genitals. They said the beating was for talking back to them.” She had added angrily that several of these policemen came to her regularly for sex, always demanding it for free.

I kept that chilling quote as a constant prod to push me to work without break on the book, to keep afresh the outrage I felt while hearing from this woman — and countless others whom I have interviewed over the past quarter-century — about how the police are their most brutal oppressors, emboldened by the knowledge that sex workers are criminalised by Indian law and that, hence, courts will scorn their appeals for justice.

Strikingly, police abuse and bad laws live on despite decades of evidence of the harm being done to millions of Indian women. As far back as 1996, a path-breaking report on sex workers by the National Commission for Women noted, “The one constant refrain from women... was to ‘do something about the police’ ...The women are arrested under charges of ‘possession of condoms’, or even on false charges of ‘possession of narcotics’ ...(They) are rounded up at the end of the month when the target for petty/minor offences are not met... Some police officers are known by name to be self-avowed crusaders against ‘prostitutes’. Instead of protecting these women from the goondas and criminal elements, the police adds its own violence and abuse to that of other criminals.” The commission was just as scathing about the law — whether the Immoral Traffic (Prevention) Act, 1986, or the myriad “vagrancy” and “public indecency” acts commonly used against them — concluding they “victimise the women,” doubling their

“exploitation and extortion.”

In the decades since, a host of other organisations and experts have urged India and other countries to reform their sex-work laws. Everyone has emphasised that an essential first reform is to decriminalise consensual, adult sex work — so as to free women from police abuse and harsh terms in jails or reformatories, as well as to empower them to fight for equal treatment with the life-destroying stigma of being criminals lifted.

Thus, the International Guidelines on HIV/AIDS and Human Rights, the keystone of the United Nations’ guidance, published in 1998 and reissued in 2006, notes, “With regard to adult sex work that involves no victimisation, criminal law should be reviewed with the aim of decriminalising, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex.” This is a central recommendation too of the 2012 Global Commission on HIV and the Law, of leading human rights groups, including Human Rights Watch and Amnesty International and of key independent experts, including the UN special rapporteurs on violence against women and on the right to health.

To understand the conundrum that all this unimpeachable, evidence-based advice has failed to lead to decriminalisation in India and elsewhere, look no further than former US President George W. Bush and his ruinous legacies. Desperate to win back some moral standing as his catastrophic Abu Ghraib, Guantanamo and “Weapons of Mass Destruction” scandals were being exposed, Mr Bush launched a global crusade against sex work, calling the sex “industry” a “special evil” amounting to “modern-day slavery”. All the destructive aspects of domestic American policies — which falsely conflate sex work with sex trafficking and punish sex workers with imprisonment — was forced on countries the world over. Organisations lost access to America’s foreign-aid billions if they refused to sign a mandatory pledge “explicitly opposing prostitution and sex trafficking”. Countries that the Bush administration unilaterally judged to be not doing enough to combat sex trafficking faced a range of sanctions.

The brutal consequences were soon evident in the many places where America wields clout. Governments began to embrace harsher anti-prostitution laws. Once India was placed on the US “watch list” of nations failing on trafficking, the ministry of women and child development worriedly began to advocate amendments to ITPA that would both criminalise the clients of sex workers as well as intensify punishments of sex workers themselves (by virtually doubling the years a sex worker could be imprisoned and by empowering authorities to forcibly “rescue” women even if they were adults who insisted they were selling sex of their own will).

And in India, as elsewhere in the world, the anti-prostitution sentiment led to oppression of a savagery that had never been known before, with authorities beating sex workers, razing red-light areas, and intensifying raids and imprisonment. The unconstitutional depth of foreign involvement was astonishing, with “rescue” raids often led by American men, typically from far-right Christian groups, but also by the *New York Times* columnist Nicholas Kristof, fired up by an imperialistic saviour-complex and his nonsensical claim that “the brothels of India are the slave plantations of the 21st century.”

Tragically, the cause of justice for women who sell sex has not recovered from the Bush war. The irresponsible fiction that Indian sex workers are hapless dupes of traffickers who need to be rescued at any cost, by forced re-education if necessary, has gripped many quarters. Hundreds of women who have clearly not been trafficked are being locked up every year, the most blatant example of this injustice being the actress Shweta Basu Prasad. Several high courts as well as the ministry of women and child development are pushing for policies that would further worsen the already unconscionable treatment of sex workers.

So it is all the more imperative that the few remaining clear-headed thinkers do whatever is needed to bring about decriminalisation and put an end to the mala fide policies that help neither sex workers nor the real victims of trafficking. The new chairperson of the National Commission for Women, Lalitha Kumaramangalam, has gone on record saying that sex work should be decriminalised. And the Supreme Court has had a panel advise it on how to balance sex

workers' rights with anti-trafficking measures. The wellbeing of some of the most unjustly treated women hangs in the balance.

***Siddharth Dube is the author of several non-fiction books, including [No One Else: A Personal History of Outlawed Love and Sex](#). He is also a senior fellow at the World Policy Institute.***

Columnists

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