

Report on the workshop on draft Bill

Introduction to the Workshop:

The introduction to the workshop was given to the participants and the participants were brief about the expected outcome from the workshop.

Sharing about the bill, Ms Aarthi said, the bill or law affects the female sex workers, So the consultation is basically for FSWs who experience a lot of violations. So, we thought we should ask the FSWs about their recommendations and any improvements to the draft bill so that the recommendations would be submitted to the Mistry of Women and Child Welfare.

The draft bill is not in isolation it is interlinked with the ITPA and the IPC (Section 370-373).

Rakesh: This is the first time that, when a law is made, the affected are given a chance to give their comments. Earlier this has not happened in case of any law. We should use this opportunity to give our comments on this bill before it is presented in the parliament and made into law.

At this point, Raju has raised a questions,

Raju: If the present bill is made into law, then what will happen to IPC and ITPA?

Replying to the query Aarthi said, the bill is an addition to the ITPA and IPC and the present draft bill had no mention of the two laws.

The structure and flow of the workshop is very flexible; it did not have any agenda as we wanted to make the participant understand its application and implementation at the ground in reality and then submit their recommendations based on that.

The three-day workshop was divided into three main parts of 1) Understanding ITPA and IPC, 2) Understanding the draft bill and 3) Discussions of the recommendation & Presentations by groups.

Session I

Understanding ITPA and IPC

Breaking the ice, the participants were asked if there is any difference between trafficking and sex work and what are they?

Everyone in the room opined that trafficked and sex work are different.

Responding as to how they are different, the following points came from the participants

Difference between Sex work and Trafficking?

Sex work	Trafficking
Sex work is consensual	Trafficking is against the will of the person
Sex work is not an offence	Trafficking in any form is an offence
The money earned from the sex work in voluntary sex work is with the sex worker	The money earned by a sex work who is trafficked is not hers

If a woman is trafficked at one time and if she is doing sex work at the present stage with her consent, then it is not an offence	The middle man lures the women and if she opposes, he blackmails her.
Many sex workers enter into sex work because of the family conditions	Trafficking is done of only young girls
	Prompting to do sex work for girls below 18 years is wrong
	If a sex worker forces her daughter to do sex work is trafficking but if she wants to do after attaining 18 years is not an offence.

In order to make the participants understand in a complex situation, the bellows examples were given:

1. A 19 years old girl is deceived by somebody and he took her to many places one after another in 1995. Today she is 40 years old and is doing sex work? What do you call this?

All the participants told that when she was forced at 19 years of age, she was trafficked but in the present situation it will not come under trafficking as she has now consented to do sex work.

2. A 25 years old women entered sex work at the age of 21. Two days before, she was beat, raped and abused by a man. What is it? Is it trafficking? Sex work? What is the act called?

Kokila, TN- Irrespective of the situation, all I know is that she was beat, raped and abused. Although she is a consensual sex worker but she has not consented for rape and abuse. So i feel it is trafficking.

Mariamamma, AP- It is trafficking because once she is beaten it will continue. She is offering her services to a client, so whatever the client says she will do as far as sex is concerned but the client has no right to beat, rape and abuse her.

The participants were then asked to raise their hands who think that the act was trafficking. The teams from TN, AP, KSWU and the Kerala agreed that it was trafficking. Then the teams from UKMO and Maharastra said that,

Sangeeta: The act is not trafficking but it is sexual violence. She has consented to do sex work but she has not consented for sexual violence.

Mukta: Violence in Sex work can happen in any situation.

The same was explained in the following manner-

Aarthi: The bill has some dangerous words, these words have the power to strengthen or destroy the communities and the communities must use them very carefully. The words are:

Violence
Exploitation

Work
Trafficking
Consent

The facilitator asked the groups whether they agree that sex work is work?

All the participants replied yes.

In order to explain the participants, the relation between work and exploitation, they were asked if they agree that work has violence? Giving an example of a Nurse who was raped in the hospital where she was working, the participants were asked what can be the act termed?

Groups replied that it is violence.

The nurse is asked to work for 18 hours instead of 8 hours with no overtime? What is it- Is it exploitation? So if the job of the nurse has violence and exploitation, then can we say that the nurse is trafficked?

Teams replied No. Explaining further the difference, Aarthi said,

Sex work has elements of Violence, Exploitation.

There is violence in sex work but sex work is not equal to violence

There is exploitation in sex work but sex work is not equal to exploitation

There is trafficking in sex work but sex work is not equal to trafficking

When we say sex work is work we are trying to root out exploitation and violence by collectivisation calling for decriminalising, these are the strategies to rooting out exploitation and violence in sex work. So we should be very careful while bringing in the understanding of trafficking in our work. We should be careful in applying the framework of trafficking in sex work. Because you are allowing the entry of the entire group of anti-trafficking people who are waiting to see this. You are representing the sex workers and you will be pulled into the anti-trafficking group. So you should be very careful when you are representing the option of trafficking in sex work and trafficking for exploitation and sexual exploitation.

Understanding Trafficking:

Trafficking has three elements:

Act- When you are recruiting, transporting, procuring, harbouring a person

Means- By using threat, force, abuse, giving benefit, coercion

Purpose- Can be slavery, organ trade, forgery etc, When the first two are combined the purpose evolves

Tejas from TN asked- If someone is simply transferring a person to another place then will it be trafficking?

Aarthi: It's a very complex situation and there cannot be an answer to this. The laws say when all the three elements are in place, it is trafficking, but the situation you are talking

here is- half the job is done. For example, a Bangladeshi woman was deceived by man and the man has sent her to sangli saying that there is a big garment factory a she could find a job there. She went there and did not found the garment factory but she went ahead and doing sex work.

Session II- ITPA

Rakesh & Aarthi

ITPA was earlier called SITA- Suppression of moral Traffic Act. The present law on ITPA dos not have any definition of trafficking.

The entire law does not have any defined definition of trafficking. ITPA was drafted in 1956. But the word trafficking was defined in 2013. For 57 years, we were having a law on trafficking but with no definition. For 57 years, the anti-trafficker groups were saying that sex work is trafficking. ITPA is very confused law as it does not have any definition.

Provisions of ITPA were explained

ITPA law is for combating the crime of trafficking,

The three main provisions of trafficking:

Sex worker: sells sex for money

Client: Receives sexual pleasure for money

Manager: who manages the act to happen smoothly.

Section 2A- Any place which has two or more prostitutes is called a brothel. Keeping or giving a house for rent is offence. Under ITPA, 2 or more sex workers working or doing sex work in a house is punishable and they are booked under brothel owner.

The place and Act need to come together to be named a brothel.

But in reality, when there is raid and rescue there is no client around but when some women are there in a room they are caught. The law in implementation is completely different than what is written in the law. Raids and rescue happens when women wash their clothes in the morning or in the afternoon when are just sitting.

Pushpa: In Dec 14 and March 15, the police arrested a lot of sex workers and trans women in Bangalore under the Karnataka Beggars Act and put them in Karnataka beggary house.

Aarthi:

Section 4: Earnings of prostitution

Whoever is above 18 years of age and lives on the earning of a sex worker, they are fined or imprisoned like children, husband

Police have picked up children and rescued because they were living on the earnings of the sex worker who is a mother and wife.

Till now, it's very rare that that the police have never ever arrested a trafficker.

Discussions in the group:

Pune-The very purpose of we entering into sex work is because we need to take care of our family and children. We want to give the good education to our children. When a doctor can raise his children with the money earned then why can't we do the same.

Mariyamma, Andhra- When husband does not support the family, many women come to sex work either by choice or trafficked at one time but they continue after some time to do sex work as they feel that they came raise their children with that money. If that money cannot be used, then none of us would have been doing sex work.

TN also opined the same thing.

The law does not recognize or take into account the decoy method of doing anything. But in case of sex workers and drug peddlers, the police send decoy customers to catch hold of the sex workers and drug peddlers.

Discussion points

Beena, Kerala- Many police come as decoy customers talk the rate and go away to police station and then send the police squad to arrest the sex worker. Secondly, the women police are close to some sex workers and they help the police by giving information about the sex workers which help them to arrest.

Pune-The police go as a customer and sometimes have sex with them, in such cases sex workers cannot do anything.

Rakesh

The police have to catch the money that changes hands but in reality they arrest the sex workers.

Section 5: Procuring or inducing a person for prostitution

Discussion

Pune-The law does not make any distinction between a minor and a consenting sex worker. Even if the women is going on her own the law does not recognise it.

Pune- The law is made for trafficking but in the end, we are made the culprits, accused. Why is our consent not taken? We are all women who have willingly come here. We see sex work as any other work.

Section 6: Detaining a person in a brothel

If a person keeps a person with or without the consent, then it is punishable.

Discussions:

Pune- Sex workers are afraid to invite relatives, or friends to their houses because they fear that if police see this then they might think that the sex worker is running a brothel.

Discussions:

Beena, Kerala: If a sex worker lives with her husband who is aware that she does sex work and if she shares her rented house with another sex worker, can they be penalised, arrested, evicted and will the house be declared as brothel?

Very often, sex workers meet in their own houses once in a while but does not do sex work in that house, can they be arrested under ITPA with the complaints given from the neighbour.

Section 7: Prostitution in a Public place

Sex work cannot be done in and around 200 metres of the public place like schools, temples etc.

Discussions

Pune: Budhwarpet which is the main centre of the city, there are many colleges, temples, school, every street has a temple...in such situation this section affects our livelihood. The women said, if we will not solicit then how will the clients come to us?

Section 8: Soliciting

Soliciting customers at public places like balconies, by lanes, gestures is punishable

Discussions:

Pune: If we don't call then who will come to us? This has become a problem everywhere, if we go to market to buy vegetables, we are picked up in the charge of soliciting.

TN, Andhra: If we don't call the clients then how will we get our livelihoods. Merely by standing will not get the clients.

Section 10: Sending to a corrective institution instead of a home

If anyone is arrested for section 7 & 8, then the Judge may feel that a sex worker needs to be in corrective home then he can put the sex worker in the corrective home for 2 to 5 years.

Section 13: Special officer or Advisory Body

The government must appoint a special officer to deal with the ITPA. It's not a special officer with some special knowledge but the same police officer is given the powers to do raid and rescue.

Discussions:

KSWU- In our experience, no special officer has come to raid on brothels or lodges and no female police personnel also comes.

Section 15: Search without a warrant

Special police officer will have special powers like go without search warrant and he may sometimes give the power to his subordinates

Discussions by the group:

At many times, the police come and call the women out and arrest them, without telling the reason, showing a search warrant is completely ruled out. The police enter and search our houses even though there would be no client around.

Section 16: Rescue

The magistrate has the power to rescue a person even though the person is doing sex work with consent.

Discussion in the group:

Chandralekha, Kerala: When a sex worker is arrested and sent to rescue home, their minor daughters are sent to children's home. The children are allowed to meet their mothers only after attaining majority

Rakesh

Section 17: Presenting before the magistrate

The women held from a brothel needs to be produced before the Magistrate. The magistrate has to do an enquiry for 3 weeks for the person accused but in reality it takes more than 3 weeks for the enquiry and for the whole period, she is kept in the rehab home. Reformation is decided by the law from 1 year to 3 years.

Section 18: Closure of a brothel and eviction

The magistrate can decide the closure of a brothel with a notice of 7 days to the owner or tenant. This was challenged by Delhi Sex workers but the Delhi High Court has given the verdict that notice of 7 days to be served to the landlord or the tenants. When it was appealed, the supreme court has also given a green signal for the High court's verdict.

Discussion:

KSWU- somehow the brothel owners manage the police and closing or eviction of brothels does not happen.

Section 19: Application for Protective Homes

A women doing sex work or trafficked women can give an application to go to protective home

Discussion

KSWU- sex workers belong to working class, they are not aware of the procedures to apply for the court and narrate their problems and issues. So they happened to stay in prisons/rescue homes for a long time. No one rescues them and no guarantor visits them for applying bail.

Section 20: Removal of a prostitute

The magistrate has the right to remove the sex worker from the place she is residing by giving a 7-day notice. This contradicts with the fundamental right which says that a person can stay in a place of his/her choice and can move accordingly.

Discussions:

Andhra: Because of this many sex workers displace from their houses and go out to do sex work.

Pune- When we were trafficked no one has given so much attention then why now.

Overall discussion points:

Zeenath, Kerala- When ITPA is about trafficking, the why are there so many sections on sex workers?

Jaseema, Kerala- ITPA must be separated from laws governing sex work

Zeenath, Kerala- ITPA violates right to Migration, livelihood and choice of employment

Consensual sex workers are also arrested under this law

There are many cases when the women police do not turn up during the raids

There is no link between trafficking and ITPA

ITPA penalises sex workers and is not for the benefit of sex workers.

Day 2

Day 2 started with exp

laining of the sections from IPC.

Rakesh explained the sections of the law:

Sec 370A- 1-Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

2-Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.

sArthi explained the complexities in the law and how it decodes in the ground:

The first one says that if a person is having sexual intercourse with a minor then it is an offence. We all know that. The second one is very important and you all need to understand it. The second point say that whoever has sexual intercourse with a trafficked victim is liable to be punished and convicted. This needs to be understood from the ground reality and how it translates into action.

Firstly, in case of trafficked person, how will a client know that she is trafficked?

Secondly, when was she trafficked. Was the trafficked person trafficked 20 years back and now she is in Sex work or is the person trafficked today? - this is not clear and the law does not talk about it.

Thirdly, when a client goes to a brothel area, will the trafficked person tell him that she is trafficked and hence not to have sex with her?

And the main important point that 370A is now being used against clients. Recently, there are cases from Andhra Pradesh and Mumbai where the police have been actively told to use 370A against clients.

Now our first struggle for stopping criminalisation have failed. High courts of AP and Maharashtra has given clear instructions to police to leave the women and arrest clients. 370A is very important from that point of view. So its application is against clients.

The Telangana and Andhra Pradesh high courts in a case in Feb has acquitted the person under ITPA but convicted under 370A.

With respect to the above explanation, the participants were then asked how Section 370A is impacted on ground?

Responses from the members:

Muthamma, Karnataka: In our working area, we found minors and we informed the police. The police came and rescued them

If client is arrested, then no one will come to us due to fear and there is a threat to our livelihood.

Pune: If clients do not come to galli then it will directly affect our income and our livelihood. What will our children eat? Police also arrest us, and take us to police station.

In pune the police took many women from the galli trying to find the Bangladeshi women.

UKMO- If S.370A criminalises the clients of sex workers then the sex workers will go underground and their risk will increase (Violence and harassment). And there is a chance of an increase in HIV infection because of the non-availability of health services.

Ponnumani, TN- If the client happens to be our regular partner then our half income is gone as the regular partners takes care of our needs. And sometimes, when there is a raid, the news spreads like wild fire and our neighbours prompt other clients not to go there. This also affects our livelihood.

Secondly, sharing her personal experience, she was trafficked and sold for Rs 30,000 to a broker. The second broker brought her to a bushy area from a hotel and when asked he said that that was not a safe place. And after taking to the bushy area, 3 men came to her and had raped her and did not pay properly, when asked to the broker, he said that the first broker has sold her for Rs 30,000 and until he makes that money he will not leave her. But somehow she escaped from him.

Mariyamma, Andhra: If client is not there then there is no sex work. Our life depends on clients because we have to take care of so many things back home with the money we get from the client.

Beena, Kerala: We do not encourage minors to enter into sex work. And hence there is no membership for them in the CBO.

If clients stop coming, then sex workers migrate to other areas for doing sex work which increases the risk of violence on sex worker because there will be no protection in the new place and atrocities will also increase.

For sex work, client is important, Sex work and client are connected. We consider sex work as a work. This is like the relation between the doctor and the patient. What will the doctor do without a patient? So what will the sex worker do without a client. If doctors job is recognised as a job so is the sex worker's job should be recognised.

Exploitation and abuse should be addressed but not the sex work and the clients. Consensual sex work needs to be considered as work.

Continuing the facilitation, the participants were explained sections 372 and 373:

Rakesh

372- selling of minors for prostitution, illicit intercourse or some other purposes calls for 10 years of imprisonment

373- buying of minors is punishable for 10 years

Discussion on draft bill

The main objective of the bill is-

“to prevent trafficking of persons and to provide protection and rehabilitation to the victims of trafficking and to create a legal, economic and social environment against trafficking of persons and for matters connected therewith or incidental thereto”

Explanation the of the law:

Every section in the bill should match the purpose laid on the top of it. There is no choice to interpret the law according to our own wish. The present bill does not create an offence like ITPA. The offences are in place in ITPA, this bill makes a reference to it.

We need to observe keenly that, there are three different bills dealing with an offence, the offence is in IPC, prevention is in a separate bill and now the rehabilitation and rescue is in a separate bill.

Section 3: District Anti - trafficking committee

Referring to the constitution, Aarthi explained that we need to look at the constitution and the powers given to the committee. The powers given to the district committee in the bill are too much. If we see them one by one, they have all the powers and do away with anything that comes to them. The member secretary will decide who has to be rescued and he is the one who will decide the rehabilitation also. You all need to understand on how the whole system of Judiciary revolves around this committee.

There is no power to the district magistrate. According to the bill, anyone can pick anyone and produced before the member secretary.

Discussion points of all groups:

3(1)

- The definition of 'Victim' need to be explained in detail as there is no clarity on defining the term in the proposed draft bill. The present definition, anyone can be interpreted as Victims- Karnataka
- The word “Victim” to be replaced with “affected”- Karnataka

Section 3(2)

The District Anti-Trafficking Committee should take decisions only after they take consent of the persons who are above the age of 18.

- Sex workers should be included in the committee as member - Prabhavathi and Shashikala, KSWU, Karnataka, Pune, Andhra, TN, Kerala
- Members with ample experience of working with the community should be part of the committee. - All groups
- Sex workers often have limited opportunity in any decision making and hence they should be provided an opportunity in the committee – Asma, KSWU.
- It is difficult to suggest sex workers to include in the committee- Lakshmi, UKMO
- It will be useful if the committee includes a woman who has good experience about various marginalised communities. Hence this need to be demanded- Hasarathbee, UKMO
- It will be good to include a person who is a social worker. We are only sex workers and hence we can't be considered as Social Worker- Mukta, Karnataka
- Any sensible person who understand the issues of women in sex work, trafficking of children and other issues will be suitable to be the member of the district committee- Prabha, Karnataka
- How can anyone take us before the member secretary, if someone is having a grudge on us then they will try to expose us first- Mariyamma, Andhra
- There are at present Anti Human Trafficking Units. At present these units are inactive. The Unit should conduct the meetings regularly- Maharashtra
- There should be sex workers in the committee who believe that sex work is work- Maharashtra, Andhra, TN, Karnataka, Kerala
- A member from the human rights commission to be there in the group- Tamil Nadu
- District Commissioner (DC) should be the member of the District Anti-Trafficking Committee. It is difficult to have both DC and District Magistrate (DM) in the committee- Bharathi, Karnataka
- If District Magistrate is there in the committee then the DM will find it difficult to give the judgement. - Hasarathbee, UKMO
- DC should be the Chair Person (President) of the committee. - Kottramma, UKMO
- Provision of higher appeal- Kerala
- WCD at the state level should call for a consultation including Police, Judges, NGO/CBOs, Women's rights groups, Women's Commission and Child rights groups and frame a work plan for the committee. This should be followed across all states- Kerala

Section 3 (4)

- A clear guideline should be there for the District Committee. Otherwise the committee can do anything they want. This will help them to be accountable. Hasarathbee, UKMO

Section 4: Procedure in relation to victims of trafficking of persons

Discussion Points

Karnataka

- In the proposed draft bill any person can protect or rescue a person. Hence due to prejudice any person can be picked up in the name of rescue. If we see this from a sex worker's prospective, giving permission to anyone to rescue will affect sex workers and sex work. So this power should be given only to a Special Officer and an experienced officer should be appointed to this position. - Prabha, Muktha and Lakshmi, UKMO.

- what if a woman is trafficked in front of us? Should we wait for the Special Officer to come for the rescue? - Praba, UKMO
- They can immediately inform the special officer- Hasarathbee
- If anyone can pick us and take before the member secretary, then all the sex workers will be in front of the member secretary- Tamil Nadu
- How can anyone can pick us, are we objects? - Mariyamm Andhra
- We condemn this, since we are sex workers there are many people who don't want us. They will land in front of our houses- Maharashtra
- A special, trained police officer only should have the authority to rescue trafficked victims. If the power is given to others like mentioned in the draft, there are high possibilities of misusing the law- Karnataka
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Section 5: State Anti- Trafficking Committee

State Anti- trafficking committee- this will advise and the District anti trafficking committee on matters relating to trafficking

Discussion Points

Section 5 (2)

- In the State Anti-Trafficking Committee, 3 social workers should be there as members and one should be a sex work having experience of working with sex worker and from an organisation working for or with sex workers. The person can be nominated from the existing organisations of sex workers- Karnataka
- Representation from Sex workers should be there- All teams
- A women representative from the civil society with an experience of working with women's issues- Kerala, Maharashtra,
- The State Anti-Trafficking committee should report regularly to WCD, Monitor the district committees- Kerala

Section 6: Central Anti Trafficking Advisory board

Discussion Points

Karnataka

The committees should include persons who have enough experience working with women

- The Central Anti - Trafficking Advisory committee should submit a report to Supreme Court through WCD- Kerala
- The committee should include sex worker, having experience of working with sex worker as a member of the committee, representing an organisation of sex workers- All teams

Section 7- Special agency

Discussion Points

Karnataka

It should be clearly defined, the members and the role of the Special Agency and at what level it will execute.

Pune

What will happen to AHU then? Will there be a separate Agency apart from AHU?- Raju

Section 8: Protection homes

Pune- In the rehab homes, they ask us to do gardening, house cleaning, etc. But they never ask us what we want. They impose work on us. We are not free to choose our work even in rehab homes.

Discussion Points

Karnataka

- Presently there are Sweekar Kendra's but these centres are not functioning now- Bharathi, KSWU
- There should be corrective homes and this should be exclusively for sex workers- Lakshmi, UKMO
- But no one should be sent to the Corrective Homes forcibly. The consent of the victim should be taken. The corrective homes should provide counselling services. The corrective homes should keep major and minors separately. - Bharathi and Shashikala from KSWU.
- There are many examples where women have faced harassment and violence in Corrective Homes. There are many examples of women who were pushed forcibly into sex work in Corrective Homes. - Prabha
- If any person breaks the confidentiality or perpetrates violence, such person should be punished
- No Sex worker should be forcibly pushed into these homes. Their consent is important- Kerala

Section 9: Special Homes

Discussion Points

Karnataka

If any adult or a child want a long term rehabilitation and later after a few months if she wants to come out of the home, provisions should be made for her to come out.

Pune

- Management of safe homes should be given to the organizations who consider sex work as work. Till how much duration women is going to be kept in the homes, consent of woman should be considered. In case of a divorce case the consent of children even if they are minor his/her consent is taken into consideration then why not ours?

Section 11: Rehabilitation and social integration

We won't the women engaged in sex work to be removed from this section- All teams

Discussions:

Section 11 (2)

- Sex workers are referred as Victims. This will give a presumption that all the sex workers are Victims. Hence the word sex work should be deleted from the definition of Victims in the bill. - Hasarathbee, UKMO.
- The definition of Victim can be rewritten as sex worker who faced exploitation. - hasarathbee and Prabha. Lakshmi shared that this will also give an assumption that sex

workers are exploited and hence sex workers should not be included in the definition of victim.

- Special schemes should be provided to the women who faced exploitation- TN

Pune

Rehabilitation should be done with consent and should not be forced on anybody. We are part of mainstream society. Sex work is not exploitation; it is work like any other work. Don't use moral immorality perceptions to sex work. Don't apply brackets to our work, our work is related to sexuality. Don't consider women who had entered into sex work by their own wish as victims.

Section 15: Punishment for disclosure of Identity

Discussion Points

Karnataka

- The policy should ensure that police will not take photos of the rescued women. This should be added in the draft policy.
- Include all possible ways of communication like, internet, social media, SMS, MMS, smartphone modes, Facebook, WhatsApp, etc.

Pune

We accept this clause; we experience that during police raid they reveal our identity so strict action should be taken against the police.

Kerala

All sort of social media should come under this.

Section 16: Using narcotic drugs, psychotropic or alcoholic substance for trafficking

Discussion Points

- Many sex workers are addicted to alcohol and if women drink together with her friend in a brothel and if there is raid, if there a possibility of punishment? - Karnataka
- If a sex worker is drunk and is assisted by another sex worker to her home and raid happens then will the later be punished? Mariamma, Andhra Pradesh

Section 17: Use of chemical substance or hormones for the purpose of exploitation

Discussion Points

- Government only manufactures medicines If someone is using it then it must have come from the government- Tavayya tai, Pune
- No, I have heard somewhere that these medicines are used for animals- Sangeeta, Pune

Section 18: General Penalty

Discussion Points

Section 19: Offence to be cognizable and non-bailable

Any person accused in under section 16 and 17 shall not be granted bail. It was clarified by the facilitators that, what is bailable and non bailable. Bailable is a situation where a person has the right to bail. But non-bailable is a situation where a person will have the fundamental

right to bail but a person can give reasons as to why he should be granted bail. Like submitting health issues, family issues etc.

- All the teams agreed that this section should be retained.

Section 20: Confiscation, Forfeiture and attachment of Property

Discussion Points- All teams

Only after conviction, the property must be attached

Section 21: Burden of Proof

Discussion Points

- It is difficult to prove innocence by the accused as they would not be equipped with resources to do- Karnataka
- Police should investigate the innocence, since not everyone will be equipped with resources to do so- Andhra, TN, Pune, Kerala

Section 28: Investigating Officer

Discussion Points

- The investigation should be done by a Special Officer who is trained and have enough knowledge on the trafficking and sex work issues and realities- Karnataka, Kerala
- There are already officers in ITPA who would investigate, they should be trained to do their work in a better way- Andhra
- Someone working with sex workers organisation should assist the investigation officer- TN

Section 31: Repatriation to another State

Discussion Points

- Women's consent should be taken before taking or making any decision about them. The Government should not take away the fundamental rights of women. There should be a freedom of choice- All teams
- If a woman is repatriated then will it be possible for her to get all her entitlements like ration card, Aadhaar card, Schemes in the other state also? – Kerala

Translator's Comments

Andhra Pradesh -Ramu's Comments

Mariamamma throughout the discussion was worried and immediately said that it is made to abolish sex workers and not for trafficking.

The committee should not get such powers.

Special Homes- She quotes that two women were put in the homes for 4 years out of which one was not a community member. She was just accompanying her. So she has strongly opined for evaluation the homes by external parties.

She doubted whether this bill is for trafficking victims or for abolishing sex work. If it is to save victims of trafficking, then sex workers should have separate schemes then only I will believe that this is for trafficking.

Maharashtra- Mandakini's Comments

The members expressed that they are giving an opinion because they were asked to give but they sincerely believe that they don't want any other new law.

All the members in the team opined that they do not want the bill. Already they are arresting women under ITPA, by introducing this law they want the dhandagalli to be closed. Earlier also in Pune, the police commissioner has said that he will stop sex work in Pune and when the communities knew about it and started agitating then the police Commissioner clarified that he has never said like that. So the members were worried with such a new law.

When the Karnataka team said that because of sex workers, wives, sisters and adolescent girls are safe then many in the team agreed to it but when it was explained then they were convinced.

The women discussed about the client who is equally important in our work. Talking about this, they cited an example, that once there was a mass raid in pune where the police closed the roads leading to the galli. The police beat the clients and they were taken in the

Women shared that women in the protection homes are raped.

Sridevi shares that, the police caught her 3 time and left her immediately.

Strong arguments came on the spending of the money from sex work. All the women said that they have come to do sex work so that they can take care of the families, if the money is not to be used then we would have not been here. Secondly, children will be children even if they are settled in life. As mothers it is our responsibility to care take of them every time.

For most of the section, the group opined that the consent and will of the women is necessary in whatever is being done to her including rehabilitation.

Kerala- Sonu's Comments

All the participants came to such workshop for the first time, so they were little confused about the law,

In the first place no one in the group wanted the bill as they were of the opinion that they already have ITPA and IPC.

When explaining the bill, the members were very upset on the way the bill imposes on sex workers. They were of the opinion that by doing all these the government wants to take away our work from us

Sometimes police arrest sex workers and take away even though they are not with clients. This creates a problem. When our regular partner comes to know about this then he will think that we have not stopped doing sex work, will doubt on us and will stop coming to us.

As an individual, we have the right to work anywhere.

In the process of repatriation, the sex worker will lose all her entitlements from her present state. Will she be given all the entitlements in the new state also? For sex workers it is very difficult to get all these schemes and entitlements. It taken years to get and how can they leave everything and go away.

The present situation the rehabilitation home facilities are in a pathetic situation. The government should sufficiently fund these homes so that the quality of the facilities can improve

Karnataka's Comments

We had a very long discussion on section 3 and 4. Women could not the fact that the trafficking victims will be picked by any one including a public spirited person. Women argued that in that case, people from Anti trafficking organisations will take all the women doing sex work and present before the Members Secretary.

A long discussion happened on the spending's of the sex worker. Women told that they do sex work to raise their children and they want their children to be settled in life.

We felt that a special, trained police officer only should have the authority to rescue trafficked victims. If the power is given to others like mentioned in the draft, there are high possibilities of misusing the law.

The bill could become a better law for trafficking, to punish real traffickers, protect the affected and rehabilitate the trafficking victims but we don't agree to bring in voluntary sex works under the bill.

Sex workers are quite capable now to access government schemes directly, stigma and discrimination is the only barrier

Tamil Nadu- Teeja Comments:

The members of the group felt that the "consent" of the victim should be there because she is one who is being rescued. Sex worker's community should be involved in each and every committee and the advisory board.

Involvement of human right's commission and other rights based organisation in the committee. The community expressed strong emotions and anger against traffickers, brokers and brothel owners.

The community raised a concern over the definition of CSOs mentioned in section 6 asking if it is inclusive of CBOs or not. The community felt that they don't need any big trainings but need small scale trainings.

Community suggested that the word "REPATRIATION" should be changed into TRANSFER.

