



Sex Workers' Conversations with Feminist Allies

The De- Criminalisation Demand

First, a quick distinction between 'decriminalization' and 'legalization'.

- Decriminalization is the repeal or amendment of laws or statutes which make certain acts criminal, so that those acts are no longer crimes or offenses.
- Legalisation, on the other hand, will mean regulation and control by the state authority ushering a zone specific 'licence raj' with mandatory health check-up, criminalizing defaulters. It could also mean criminalizing of some aspects of sex work e.g. clients.

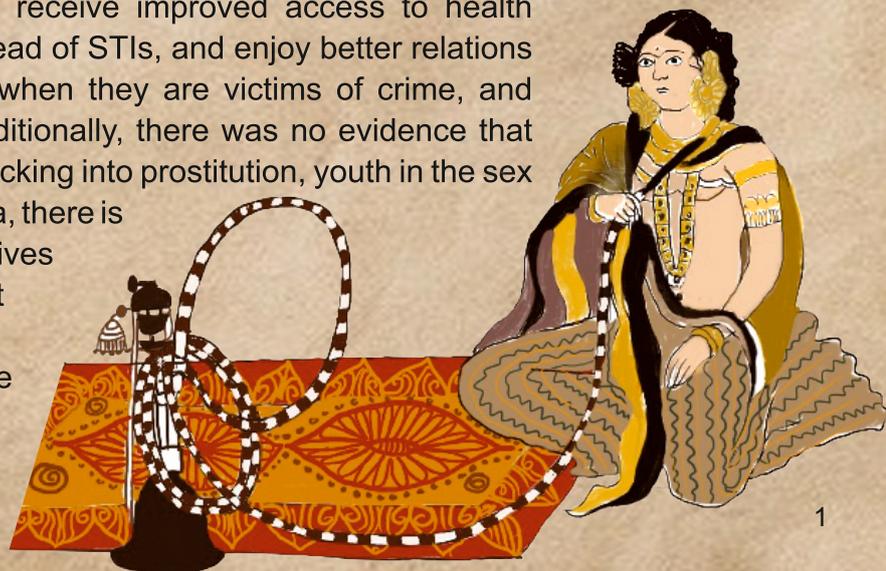
Anti - trafficking groups globally and specifically in South Asia, have often muddied the waters on the issue of adult consenting sex work, by continuously stating that "efforts to decriminalise sex work will lead to increased demand for trafficked victims and fuel sexual exploitation". Sex work is adult consensual provision of sexual services and must not be equated with sexual exploitation or sex trafficking.

"Sex work and sex trafficking are not the same. The difference is that the former is consensual whereas the latter coercive. Any point of view that casts "voluntary prostitution" as an oxymoron erases the dignity and autonomy of the sex worker in myriad ways. It turns self - directed actors into victims in need of rescue."
UNDP Global Commission on HIV and the Law

Any argument that seeks to define sex work as violence and exploitation forecloses discussion over the rights of people involved in sex work to pursue it as a livelihood. The relentless conflation of sex work and trafficking also severely undermines the human rights of sex workers while failing to secure rights of people who are trafficked; by misdirecting resources into policing sex work, rather than identifying people who are coerced and providing appropriate support. It exacerbates the lack of legal remedies to redress violence and erodes the efforts of sex workers fighting for legal and social recognition of their rights to dignity and livelihood.

We Call for Decriminalization

Studies conducted in New Zealand after decriminalization concluded that sex workers have better working conditions, receive improved access to health services, take precautions to stop the spread of STIs, and enjoy better relations with police, increased access to justice when they are victims of crime, and increased confidence and well-being. Additionally, there was no evidence that decriminalization led to an increase in trafficking into prostitution, youth in the sex trade, or the number of sex workers. In India, there is abundant evidence from sex worker collectives such as VAMP in Maharashtra showing that when sex workers collectivise and come together without fear of persecution they are able to fight exploitation and abuse within sex work. This itself is a strong argument in favour of de - criminalization.



Removing the criminalized environment

In South Asia people soliciting for sex work may be arrested under public order offences. Raids of adult consenting sex workers in brothels are frequent. Sex workers are often arrested for public order offences, and condoms are confiscated as evidence of sex work. Many countries have introduced criminalization of the clients of sex workers to reduce the demand for sex work and to 'protect' sex workers. Research on the negative consequences of the criminalization of clients found: increased risk and actual experience of violence among sex workers; decreased negotiating power for safer sex practices among sex workers; threats to safety networks and warning systems among sex workers; reluctance among clients to report violence that they witness against sex workers; the possession of condoms was used as evidence against clients of sex workers; and increased difficulty for sex workers in accessing and maintaining housing.

The courts in Nepal and India have recognized the constitutional rights of sex workers. In 2002, for instance, the Supreme Court of Nepal ruled that provisions of the criminal law that purported to apply a lighter penalty to rapists in cases in which the survivor was a sex worker were unconstitutional and invalid. The Court stated that “[p]rostitution is a profession or occupation irrespective of whether or not it is legal” and held that sex workers should not be discriminated against in the criminal law in cases of rape, given the constitutional rights to equality and to choose one's own profession. In India, the Supreme Court has held that sex workers are entitled to a life of dignity. They have a right to decide whether they would like to remain in sex work.

Unsafe Working Conditions

It is a known fact that the current criminalized environment also results in unsafe working conditions for sex workers including exploitative practices by third parties and lack of access to nondiscriminatory health services. Decriminalization will help sex workers organise and address all forms of exploitation, including abusive, sub-standard or unfair working conditions instituted both within and outside the sex trade.

In countries where sex work is decriminalized, there is evidence that violence directed at sex workers is reduced, relations between sex workers and the police are improved, and access to health services has increased. The criminalisation of sex workers' personal relationships amounts to the criminalisation of sex workers themselves, while the criminalisation of workplaces mitigates against sex workers ability to protect themselves from HIV and other STIs, and gain labour rights.

Sex work is work, and sex workers should not be defined as either criminals or victims, such an analysis harms not only sex workers but all women. Sex work needs to be decriminalised in order for the rights of sex workers to be protected.

