

LOOKING BEYOND LAW: A REVIEW OF THE INDIAN SEX WORKERS' MOVEMENT

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INTRODUCTION

"A new spectre seems to be haunting the society. Or maybe those phantom creatures who have been pushed into the shades for ages are taking on human form - and that is why there is so much fear."

-Sex Workers' Manifesto.¹

In India, sex workers have traditionally been viewed as a menace to society and a class that must be abolished. They are described as a category threatening the social order by endangering public health, sexual morality and civic values.² Closely connected with this viewpoint is an understanding that no sex worker chooses her profession voluntarily in order to earn her livelihood, by providing a sexual service; sex workers are victims of coercion and objects of pity.³

The discourse outlined above has led to an understanding that sex workers need to be 'rescued' from their plight and then 'rehabilitated' in order to exist in the mainstream of society. This approach has been incorporated into the Indian law regulating sex work, The Immoral Trafficking (Prevention) Act, 1956 (ITPA). This paper argues that such an approach to improving the conditions of sex workers, dependant on the legal mechanism for its success, is doomed to failure since it fails to engage sex workers themselves as key stakeholders and a morality argument underlies its mandate; what is required instead is an approach that views sex work as a legitimate profession, invites the full participation of sex workers themselves and incorporates within itself their concern to be given the status of full members of society.

In order to meet its aims, this paper is divided into three parts. Part I highlights the failure of the "rescue and rehabilitation" approach by reviewing, in the context of

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1. Theme paper of the First National Conference of Sex Workers organized by Durbar Mahila Samanwaya Committee, Calcutta, 14-16th Nov., 1997.
 2. Ibid.
 3. Ibid.

the ITPA, the Indian experience with this approach. Part II uses the case studies of two sex workers' cooperatives, the Durbar Mahila Samanwaya Committee (DMSC) in Kolkata and Sampada Grameen Mahila Parishad (SANGRAM) in Sangli in order to underline the benefits, advantages and successes of an approach involving the active participation of sex workers in a struggle for their rights. Part III investigates the reasons for the failure of the "rescue and rehabilitation" approach, and the success of the activist approach and concludes that the legal mechanism, being inherently oppressive, is of limited use in a movement until stakeholders in the movement collectively organize themselves in a struggle for their rights.

I. LOOK BACK IN ANGER: THE INDIAN EXPERIENCE WITH "RESCUE AND REHABILITATION"

In this Part we demonstrate that the ITPA outlines a "rescue and rehabilitation" approach and attempt to highlight the failure of this approach by reviewing the functioning of the ITPA.

According to the "rescue and rehabilitation" approach, the social and economic situation of sex workers can be improved by forcibly "rescuing" them from brothels and red light areas, putting them up in "safe homes" and then offering them "respectable" employment.⁴ Methods of restricting entry into the profession, such as disallowing the recruitment of consenting individuals for the purpose of prostitution,⁵ are obvious corollaries to this approach.⁶ The "rescue and rehabilitation" approach makes certain assumptions relating to sex work: One, sex work is "immoral"; two, sex work is inherently "exploitative".⁷ Accordingly, the approach entails legal restrictions on sex work, with procedures for rescuing and rehabilitating sex workers.⁸ Typically it involves NGOs, "work[ing] with the local police to initiate raids, rescue girls, and arrest brothel keepers in red-light districts",⁹ or the State, "forcibly displacing sex workers"¹⁰ and offering them the "opportunity to be housed behind barbed wire in a former children's home to learn handicrafts, including candle-making and embroidery".¹¹

4. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005) 89, 95.

5. Section 5 of the ITPA.

6. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 96.

7. Theme paper of the First National Conference of Sex Workers organized by Durbar Mahila Samanwaya Committee, Calcutta, 14-16th Nov., 1997.

8. *Ibid*.

9. "Raids, Rescue and Unseen Realities", <http://www.vampnews.org/nov05/raids.html>, 3-12-2007.

10. "India: Eviction of Sex Workers Boosts HIV Risk", <http://hrw.org/english/docs/2004/07/06/india9010.htm>, 23-11-2007.

11. *Ibid*.

The ITPA, by defining “prostitution” as “sexual exploitation or abuse of persons for commercial purposes”¹², identifies sex work in terms of the “rescue and rehabilitation” approach. Further, by providing for restrictions on sex work and for rescue and rehabilitation of sex workers, the ITPA clearly integrates this approach into law.¹³

The ITPA restricts sex work in a manner such that sex work *per se* i.e. the act of a sex worker having sexual intercourse with a client, is not illegal, but all other accompanying acts required to carry out sex work are illegal: Keeping of a brothel,¹⁴ procuring, inducing or taking a person for prostitution, with or without that person’s consent.¹⁵ The rationale of not prohibiting sex work *per se* but only the accompanying acts, is based on the “rescue and rehabilitation” ideology, wherein the sex worker is identified as the “victim”.¹⁶ The ITPA also provides for the rescue and rehabilitation of sex workers by making provisions for forcible “rescue” of sex workers,¹⁷ the setting up of “protective homes” and “corrective institutions” by the State Governments,¹⁸ the keeping of a person in the “care and protection of the Court”¹⁹ and the removal of a prostitute from any place.²⁰

The ITPA, which incorporates the “rescue and rehabilitation” approach into law, has been the basis of efforts to improve the conditions of the sex workers in India.²¹ This approach, as the following discussion shall show, has failed to improve the condition of sex workers.

Police Harassment: Sex workers face constant harassment at the hands of Police. The ITPA, by prohibiting all accompanying acts required to carry out sex work, even if not prohibiting sex work *per se*, places sex work *per se* in the grey zone of legality, resulting in the harassment of sex workers by the Police.²² Typically, this harassment involves the arrest of the sex worker under one charge or another under

12. Section 2(f) of the ITPA.

13. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007.

14. Section 3 of the ITPA.

15. Section 5 of the ITPA.

16. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007.

17. Section 16 of the ITPA.

18. Section 21 of the ITPA.

19. Section 19 of the ITPA.

20. Section 20 of the ITPA.

21. Mishra, G. *et al*, “Protecting the Rights of Sex Workers: The Indian Experience”, Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 96.

22. Durbar Mahila Samanwaya Committee, *Sex Workers' Right to Self Determination* (1997) in Proceedings of West Bengal State Conference, April 29-30, DMSC, Kolkata.

the ITPA and then being released later in return for money.²³ The Sociologist Jean D’Cunha, in her study on the sex workers in Bombay, found that between 1980 and 1987 as many as 9000 sex workers were arrested, with this number being disproportionately higher than the number of pimps, procurers and brothel keepers arrested.²⁴ Another study shows this trend to be on the rise: Between 2001 and 2005, 6,043 cases were registered in Karnataka under the ITPA, a vast majority of them were against individual sex workers and not against brothel owners or keepers.²⁵ Police harassment also routinely extends to physical violence, as a survey conducted among 172 sex workers across 13 districts in Tamil Nadu has shown²⁶ “nearly 70% of the women had been beaten up with *lathis* and logs of woods and been kicked by booted policemen while some had their hands and legs broken and their sex organs mutilated.”²⁷ Apart from police harassment, sex workers also face harassment at the hands of pimps, brothel owners and local goons.²⁸

The ITPA Reinforces Negative Social Attitudes Regarding Sex Work:

The ITPA, by branding sex work as “immoral”, has further compounded negative social attitudes towards sex workers, as a result of which, sex workers are treated as morally compromised second class citizens, with the basic human rights unavailable to them.²⁹ Refusal by the Police to register FIR by a sex worker on the ground that they are “*vaishyas* and not ‘normal’ citizens”,³⁰ refusal by schools to admit children of sex workers,³¹ preventing sex workers from residing in any place,³² are all manifestation of this negative attitude towards sex workers which has resulted in a deprivation of their rights of citizens.

The ITPA Leads to Discrimination Against Sex Workers In Health

Care: With the spread of HIV/AIDS, sex workers are commonly viewed as “vectors in the spread of AIDS virus”³³ and as a “risk to public health”³⁴, with the result that

23. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007.

24. J.D’Cunha, ‘The Legalization of Prostitution: A Sociological Inquiry into the laws relating to prostitution in India and the west’ (1991).

25. Kumar, S., “Police Victimize Sex Workers”, <http://www.deccanherald.com/deccanherald/dec42005/state181342005123.asp>, 12 – 11 - 2007.

26. “Fact File”, http://www.vampnews.org/vol01no03/fact_file.html, 29 – 11 – 2007.

27. Ibid.

28. Kumar, S., “Police Victimize Sex Workers”, <http://www.deccanherald.com/deccanherald/dec42005/state181342005123.asp>, 12 – 11 - 2007.

29. “Turning a Blind Eye”, <http://www.vampnews.org/vol01no03/turning.html>, 26 – 11 – 2007.

30. “Protect the Rights of Women in Prostitution”, <http://www.vampnews.org/vol01no01/action.html>, 25 – 11- 2007.

31. “Turning a Blind Eye”, <http://www.vampnews.org/vol01no03/turning.html>, 26 – 11 – 2007.

32. Section 20 of the ITPA.

33. “Interview of Meena Shishu”, <http://www.youandaids.org/MeenaSeshu/index.asp>, 27 – 11 – 2007.

34. <http://www.newint.org/issue368/sexworkers.htm>, 27 – 11 – 2007.

sex workers face discrimination and exploitation in the area of health care.³⁵ The National Aids Policy, 1997, which lays down that no individual should be forced to undergo mandatory HIV testing, is clearly ignored in the case of sex workers who are regularly subjected to HIV testing without their consent.³⁶ Hospitals are also known to refuse to treat and admit sex workers on the ground that they are carriers of AIDS.³⁷ Sex workers also face the problem of general lack of access to health care.³⁸

Financial Insecurity: The earnings of sex workers are commonly appropriated by brothel owners and traffickers, with one survey carried out amongst the sex workers of Calcutta finding that of the average annual turnover of 720 million rupees, as earnings by sex workers, “only a small part goes to sex-workers”.³⁹ Further, with lack of education and information amongst sex workers, access to institutionalized credit is limited,⁴⁰ with the result that sex workers are dependent on moneylenders for credit, who charge exorbitant rate of interest that often exceeds 100% per month.⁴¹ Thus, sex workers, having only a part of their earnings at their disposal, are forced to borrow from money lenders at very high rates of interest, with the result that they are caught in indebtedness for most of their working lives.⁴²

Rescue of Sex Workers Violates Their Rights: The rescue of sex workers, under the ITPA, are in flagrant violation of the rights of sex workers. Rescue attempts by the Police is accompanied with violence and use of physical power, thus depriving the sex workers of their “right to freedom from violence”.⁴³ On rescue, the sex workers are denied information on legal rights they can avail of and are not allowed to meet NGOs or other legal groups, thus violating their “right to seek legal help”.⁴⁴ These rescue attempts are also carried out in a veil of secrecy, without any information as to the purpose of rescue and the destination of internment, thus violating the “right to information” of sex workers.⁴⁵

35. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007.

36. “See Rehabilitation against their will?”, <http://www.vampnews.org/vol01no2/against.html>, 24 - 11 - 2007.

37. Seshu, M., “Collectivization: Combating Violence against Women in Prostitution”, <http://www.vampnews.org/vol01no2/against.html>, 3-12-2007.

38. “Interview of Meena Shishu”, <http://www.youandaids.org/MeenaSeshu/index.asp>, 27 - 11 - 2007.³⁸ <http://www.newint.org/issue368/sexworkers.htm>, 27 - 11 - 2007.

39. Gangoli, G., “Prostitution as Livelihood: Work or Crime?”, http://www.anthrobase.com/text/G/Gangoli_G_01.htm, 29 - 11 - 2007.

40. Ibid.

41. Ibid.

42. Mishra, G. *et al*, “Protecting the Rights of Sex Workers: The Indian Experience”, Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 94.

43. “Reality Bites: Rescue Violates Rights of Women in Prostitution”, <http://www.vampnews.org/vol01no02/reality.html>, 28 - 11 - 2007.

44. “Reality Bites: Rescue Violates Rights of Women in Prostitution”, <http://www.vampnews.org/vol01no02/reality.html>, 28 - 11 - 2007.

45. Ibid.

Rehabilitation Attempts Have Failed: Experience clearly shows that the rehabilitation schemes initiated by the Government have backfired. In the rehabilitation homes set up under the ITPA, sex workers undergoing rehabilitation live in “subhuman conditions with severe restrictions on their freedom”⁴⁶ and “like convicts with remotest possibility of being rehabilitated”⁴⁷. Besides, while rescue and rehabilitation by the State involves the taking away of the means of employment of sex workers, no attempt is made to provide for alternate means of employment, as there are no efforts to equip sex workers with skills which are marketable.⁴⁸ Rather efforts are made to get the inmates “rid of their supposed immorality”, for example, by teaching them devotional songs.⁴⁹ Sex workers in these homes also encounter physical and sexual abuse,⁵⁰ with many of these homes, associated with “rape, corrupt transactions and prostitution”⁵¹ and being perceived as “den of vices” and “second brothels”.⁵²

The discussion carried out in the part clearly shows that the “rescue and rehabilitation” approach, implemented through the ITPA, has being a failure. It has not bought about any substantive improvement in the lives of sex workers and has, in fact, worsened their condition by placing sex work in the grey area of legality and by reinforcing negative social attitudes about sex work. In the next section we review the Indian experience with one such alternate approach, the activist approach, by carrying out a case study of two sex workers’ groups, DMSC and SANGRAM.

II. DMSC and SANGRAM: Looking At The Future With Hope

As against the “rescue and rehabilitation” approach discussed above, there has emerged in recent times an alternate intervention strategy aimed at securing the rights of sex workers. This approach, commonly known as the human rights or activist approach,⁵³ asserts that if sex workers are to attain the status of full members of society three changes are essential. *Firstly*, it is imperative that sex work be completely decriminalized and sex work be viewed as a legitimate profession.⁵⁴

46. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007.

47. Mishra, G. *et al*, “Protecting the Rights of Sex Workers: The Indian Experience”, Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 102.

48. *Id.*

49. Kotiswaran, P., “Preparing for Civil Disobedience: The Indian Sex Workers and the Law”, http://www.bc.edu/bc_org/avp/law/lwsch/journals/bctwj/21_2/01_FMS.htm, 23-11-2007

50. *Ibid.*

51. “See Rehabilitation against their will?”, <http://www.vampnews.org/vol01no2/against.html>, 24 - 11 - 2007.

52. Mishra, G. *et al*, “Protecting the Rights of Sex Workers: The Indian Experience”, Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 102.

53. *Ibid.* 103.

54. Durbar Mahila Samanwaya Committee, *Sex Workers’ Right to Self Determination* (1997) in Proceedings of West Bengal State Conference, April 29-30, DMSC, Kolkata.

Secondly, it is necessary to change social attitudes towards sex work as immoral and inherently exploitative.⁵⁵ *Thirdly*, it is necessary that there is solidarity amongst the sex workers, expressed through mutual support, collective bargaining and united action.⁵⁶

This part of the paper reviews the benefits, advantages and successes of the activist approach by reviewing the achievements of two sex workers' groups in India, DMSC and SANGRAM, which have adopted the this approach.

2.1 KOLKATA CALLING: DMSC AND THE ROOTS OF A REVOLUTION

In 1992, the Government of India, through the All India Institute of Hygiene and Public Health, and in collaboration with a number of NGOs undertook an HIV/AIDS intervention program in Sonagachi, the red light district of Kolkata.⁵⁷ The program was based on the concept of peer education, which involved the recruitment and involvement of certain sex workers in the project to educate their peers about HIV/AIDS.⁵⁸ Although the project has subsequently been an outstanding success,⁵⁹ one of the main problems faced by the peer educators in the initial stages of the project was the reluctance of clients to use condoms; if a sex worker insisted on condom usage it was easy for a client to find a sex worker who was willing to service him without one, by paying only a slightly higher price.⁶⁰ A search for a solution to this problem led the sex workers to realize that it was necessary to create solidarity and collective strength among sex workers and form an association and insist not only on condom usage but also bring forward a demand for a realization of their basic human rights. Thus, in July 1995, DMSC, which is today a body of sex workers with over 60,000 members, came into being.⁶¹

The DMSC bases its work on three principles: *Firstly*, DMSC believes that sex work is a legitimate profession and can be a conscious choice of a woman as a means of livelihood.⁶² Accordingly, it believes that sex workers should not be denied the

55. Theme paper of the First National Conference of Sex Workers organized by Durbar Mahila Samanwaya Committee, Calcutta, 14-16th Nov., 1997.

56. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 103.

57. "The Communication Initiative", <http://www.comminit.com/experiences/pds12004/experiences-466.html>, 26 - 11 - 2007.

58. "Indian Sex Workers Case Study", <http://www.eldis.org/gender/dossiers/Indiasexworkers.htm>, 25 - 11 - 2007.

59. Nag, M., "Sex Workers in Sonagachi", *Economic and Political Weekly*, Dec. 3rd, 2005, <http://www.epw.org.in/showArticles.php?root=2005&leaf=12&filename=9417&filetype=html>, 24 - 11 - 2007.

60. *Ibid.*

61. *Ibid.*

62. Durbar Mahila Samanwaya Committee, *Sex Workers' Right to Self Determination* (1997) in Proceedings of West Bengal State Conference, April 29-30, DMSC, Kolkata.

rights and benefits accorded to persons in other professions.⁶³ *Secondly*, DMSC demands the complete decriminalization of sex work, specifically; it demands the repeal of the ITPA, which it sees as an instrument of torture and exploitation at the hands of the State.⁶⁴ *Thirdly*, DMSC believes that in order to bring about a substantive improvement in the lives of a marginalized community, such as sex workers, it is necessary to challenge the dominant ideologies underlying the structures of oppression.⁶⁵

Some of these achievements may be discussed in order to illustrate the extent of success enjoyed by this alternative intervention strategy.

HIV/AIDS Program: The HIV/AIDS awareness and prevention program, which gave rise to DMSC, still forms a core area of the activities carried on by the organization. The fact that the program has been an astounding success is borne out by the following facts and statistics: In 1992, the year in which the program commenced, the rate of condom usage amongst sex workers was as low as 4 per cent,⁶⁶ by 2001 the figure had risen to between 65 percent and 80 per cent.⁶⁷ HIV prevalence among sex workers in Sonagachi is between 8 to 10 per cent compared to over 60 per cent in Mumbai's Kamathipura red light area.⁶⁸ The Sonagachi project was hailed by the National AIDS Control Organization (NACO) as the most successful HIV/AIDS intervention project among sex workers in India.⁶⁹ It has also been given the status of a "model project" and "best practice" for HIV/AIDS intervention by the World Health Organization.⁷⁰

Another initiative of the DMSC that has helped in bringing about an increase in the rate of condom usage is the social marketing of condoms. This process involves the selling of condoms by trained sex workers to other sex workers at a lower, subsidized rate.⁷¹

63. Ibid.

64. Ibid.

65. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 104.

66. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 104.

67. "The Communication Initiative", <http://www.comminit.com/experiences/pds12004/experiences-466.html>, 26 - 11 - 2007. This estimate puts the 2001 rate of condom usage at 65 percent. However, also *See* Society for Human Development and Social Action, *Report of the Fourth Follow-up Survey 2002* which estimates the 2001 condom usage rate at 80 percent.

68. Jenkins, C., *Female Sex Workers: HIV Prevention Projects: UNAIDS Case Study*, UNAIDS/00.45E, 70.

69. NACO, "Status and Trend of HIV/AIDS Epidemic in India up to 1999", <http://www.naco/trend.htm>, 27 - 11 - 2007.

70. "The Communication Initiative", <http://www.comminit.com/experiences/pds12004/experiences-466.html>, 26 - 11 - 2007.

71. Nag, M., "Preventing AIDS Among Sex Workers", 4th October, 2003, *Economic and Political Weekly*, 67.

The Usha Multipurpose Cooperative Society: Perhaps the most important step taken by DMSC towards the empowerment and independence of women in sex work is the formation of the Usha Multipurpose Cooperative Society, (UMCSL) a credit cooperative society that has helped sex workers gain financial security and freed them from the high interest rates charged by moneylenders. The UMCSL has a membership of over 6,000 sex workers, making it the largest co-operative society of sex workers in the world.⁷² With a minimum deposit of only 5 rupees,⁷³ by the start of 2004 its working capital had reached 25 million rupees (\$550,000) and its annual turnover 52 million rupees (\$1.2 million).⁷⁴ The total amount of loan issued for the year 2004 was 1.2 crore rupees.⁷⁵

Self-Regulatory Boards: In order to abolish the forced entry of women into prostitution and to stop child prostitution the DMSC has formed a number of self-regulatory boards, whose members include representatives from the National Human Rights Commission, the National Commission for Women and the Indian Bar Association.⁷⁶ These boards function as the anti-trafficking wing of the DMSC and try to ensure that all rules and regulations of the sex trade are followed.

The Hosting of National Sex Workers' Conferences: Apart from the initiatives discussed above there have been a number of other achievements of the DMSC. One of the milestones for the DMSC was the organization of three national conferences of sex workers between 1997-2001. These three-day conferences have been seen as major success with over 5000 sex workers attending each conference from all around India and the subcontinent.⁷⁷ Representatives from the West Bengal Government, Government of India, WHO, UNAIDS, some trade unions and NGOs as well as some distinguished writers and other intellectuals have participated in various panel sessions of the conferences.⁷⁸ These conferences have helped emphasize the demands of the sex workers, had an impact on the public psyche regarding prostitution and helped bring about political support for the movement.

2.2. CHANGING SANGLI: THE EXPERIENCE OF SANGRAM

SANGRAM is another group that has followed the human rights approach to sex work with great success. The group was founded in 1992 and has subsequently

72. <http://www.newint.org/issue368/sexworkers.htm>, 27 - 11 - 2007.

73. Ibid..

74. Ibid.

75. Nag, M., "Sex Workers in Sonagachi", *Economic and Political Weekly*, Dec. 3rd, 2005, <http://www.epw.org.in/showArticles.php?root=2005&leaf=12&filename=9417&filetype=html>, 24 - 11 - 2007.

76. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 105.

77. "Indian Sex Workers Case Study", <http://www.eldis.org/gender/dossiers/Indiasexworkers.htm>, 25 - 11 - 2007.

78. Nag, M., "Sex Workers in Sonagachi", *Economic and Political Weekly*, Dec. 3rd, 2005, <http://www.epw.org.in/showArticles.php?root=2005&leaf=12&filename=9417&filetype=html>, 24 - 11 - 2007.

formed two large collectives of women each consisting of 2000 to 3000 members.⁷⁹ Like DMSC, SANGRAM believes that sex work is a legitimate profession which should be decriminalized and that improving the lives of sex workers requires collective empowerment.⁸⁰ The concept of sex promoted by SANGRAM is one of 'responsible sex' rather than 'safe sex'. This concept bases itself on the assertion that one should be responsible for one's actions.⁸¹ 'Responsible sex' is not a concept based on morality, but merely a broader concept than safe sex, encompassing more humane dimensions of sexual intercourse.

Based on the philosophy outlined above, SANGRAM embarked on a peer-based condom intervention with sex workers in Sangli, a sugarcane-rich district with the highest incidence of HIV in Maharashtra.⁸²

In 1996, the peer education program resulted in the formation of the first of two sex workers collectives in Maharashtra the Veshya AIDS Muqabla Parishad or VAMP.⁸³ Some of the significant achievements of VAMP and SANGRAM are discussed below.

The Peer Education Program: The condom distribution and peer education program is built on two underlying philosophies. *Firstly*, VAMP believes that health policies and systems are accountable to people. *Secondly*, all individual sex workers, truckers, widows and those affected by HIV can be empowered to demand accountability from the system.⁸⁴ The peer education and condom distribution program is managed by VAMP and the outreach program focuses on convincing truckers, migrant workers and auto-rickshaw drivers to engage in 'responsible sex' and treat HIV.⁸⁵ The program also includes a campaign to provide access to treatment, including Anti Retroviral Therapy.⁸⁶ Today, more than 10 years later, 120 sex workers distribute 350,000 condoms to 5,000 women in sex work in six districts in two states. It has become one of the largest peer education condom interventions in India.⁸⁷

Providing Education to Sex Workers' Children: In the face of discrimination and harassment from their teachers and peers, many sex workers' children drop out of school. In order to minimize the adverse effects of this

79. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 106.

80. *Ibid*.

81. *Ibid*.

82. *Ibid*.

83. *Ibid*.

84. "Description of SANGRAM", <http://www.genderhealth.org/pubs/SANGRAMdesc.pdf>, 6 - 12 - 2007.

85. *Ibid*.

86. *Ibid*.

87. Kabra, H., "HIV and the Hive of Security", http://www.outlookindia.com/ad.asp?fodna=12_0040719&fna/=IMaking&sideequal1.htm, 16 - 12 - 2007.

phenomenon, VAMP has started providing supplementary classes to the children of sex workers in the evenings, with older boys of the community taking classes for the younger children.⁸⁸

The District Level Program: In 1997 SANGRAM started an HIV/AIDS intervention program amongst the rural populace at the district level. Today, the project is spread over 713 villages of Sangli district, over eight *tehsils*. There are nine centers in the *tehsils*, run by trained Social Workers. There are 59 primary health centers in the district and ten rural hospitals. 53 women organizers are placed at the Public Health Clinics and 10 workers are placed at the rural hospitals.⁸⁹ The district has one civil hospital at Sangli with a counselor placed at the hospital.⁹⁰

The VAMP experience has clearly helped improve the conditions of existence of sex workers in the Sangli District. It has helped build a common identity and this has resulted in VAMP members placing their own demands on a national and local level. There exist also a number of incidental benefits from SANGRAM's efforts: sex workers have developed broader, self-identities as activists and members of VAMP.⁹¹ This in turn has led to a challenging of power structures within the sex workers' community itself in the form of challenges to the abusive authority of the madams and pimps by ordinary sex workers.⁹²

III. CONCLUSION

An assessment of the reasons for the failure of the "rescue and rehabilitation" approach and the success of the human rights or activist approach, reveals the following requirements for any successful attempt to improve the condition of sex workers - Firstly, there is a need to understand the ground realities of sex work, without any obfuscation by moral arguments. For example, one of the major reasons for the failure of the "rescue and rehabilitation" approach has been its inability to recognize the fact that sex workers want improvement in their condition, while *remaining as sex workers*.⁹³ Secondly, for *substantive* realization of rights there is a need for collective organization amongst sex workers. Law is a product of the power structure in the society,⁹⁴ and hence, for the substantive realization of rights by the powerless, the power structure itself must be challenged rather than merely the law.

88. Ibid.

89. "The Communication Initiative- Experiences- SANGRAM", <http://www.comminit.com/experiences/pds92004/experiences-2059.html>, 12 - 12 - 2007).

90. "Description of SANGRAM", <http://www.genderhealth.org/pubs/SANGRAMdesc.pdf>, 6 - 12 - 2007.

91. Mishra, G. *et al*, "Protecting the Rights of Sex Workers: The Indian Experience", Mishra, G. and Chandramani, R. (eds.), *Sexuality, Gender and Rights* (New Delhi, Sage Publishers, 2005), 89, 107.

92. Ibid.

93. Theme paper of the First National Conference of Sex Workers organized by Durbar Mahila Samanwaya Committee, Calcutta, 14-16th Nov., 1997.

94. Kapur, R., and Cossman, B., *Subversive Sites: Feminist Engagement with Law in India*, (New Delhi: Sage Publishers, 1996), 27-31. The authors present the view that law is a product of the power structure in the society and hence, in a patriarchal society, law is an instrument of patriarchal oppression.

Nalsar Student Law Review

The “rescue and rehabilitation” approach, failed to look beyond law at the underlying power structures, and hence failed to *substantively* improve the condition of sex workers.

The activist approach on the other hand has focused on the human rights of sex workers and the collective action required to ensure the realization of these rights. This approach has concentrated on bringing about a substantive improvement in the lives of sex workers by giving them better access to health care, financial credit and education. Most importantly, it has helped foster a sense of collective identity that is necessary to provide the sex workers with the courage, and resources, required to challenge the existing moral and legal system.

The successes of the activist approach serves as a model for all marginalized communities struggling for their rights- in order to be given the status of full members of society and bring about an improvement in the groups condition it is unwise to depend solely on the legal mechanism, what is required is collective action on part of the marginalized community, aimed at challenging the social structure that oppresses them. Only through such an approach can empowerment of the community be ensured.