

## Why the so-called Immoral Traffic (Prevention) Act of India should be repealed?

1. We, sex workers, provide sexual services to our customers. That is why we should be recognized as service sector workers. We demand workers' rights.
2. The principal legal obstacle in the path of our recognition as service sector workers is the Immoral Traffic (Prevention) Act of India. Why?
3. Let us begin by taking a look at the very title of the Act. It is called the 'Immoral Traffic (Prevention) Act' [IT (P) A]. At issue here should be the trafficking of humans, which is the business of buying and selling of human beings. This Act avowedly aspires to prevent 'immoral trafficking'. Does it not suggest by implication then, that some forms of human trafficking are moral? Indeed it does so, when it collapses the terms trafficking and sex work (in its jargon 'prostitution'), in all the sections of the Act. In all sectors of the labour market some human beings are trafficked, but not all and, this is true of the sex sector too. We need comprehensive law(s) for fighting all forms of trafficking of human beings in all sectors of the economy, like, agriculture, transport, mining, manufacturing, cottage industry, domestic services, hotels.... At Kolkata and in some of the districts of West Bengal, we the sex workers are putting up a battle against trafficking of human beings in the sex sector, through our own self-regulatory boards. Trafficked labour in the sex sector is indeed a very small part of the total number of workers trafficked into and from our labour market. The conflation of sex workers and trafficked persons in the IT(P)A is thus untenable.
4. Our IT (P) A was promulgated in pursuance of the Anglo-American legal-sexual culture inspired International Convention for the Prevention of Immoral Traffic (New York, 9 May 1950). The IT (P) A defines any house, room, conveyance or place or any portion of such spaces used for the purposes of sexual exploitation or abuse, for the gain of another person, as a brothel [see:IT (P) A], 2. (a)]. Under patriarchy, in all transactions, men gain at the expense of women. In all patriarchal homes a vast majority of women are routinely sexually exploited or abused by their husbands and other relatives or acquaintances. Hence, according to the aforementioned definition 2. (a) of the IT(P)A, the whole of patriarchal India is one big brothel. However, according to sub-section 6. (1) (b) of the same IT (P)A it is only in these patriarchal homes that we conduct our legally approved, non-criminal, inter-spousal, marital, sexual activities. This makes the sub-sections 2. (a) and 6. (1) (b) mutually inconsistent.
5. In fact the entire Act is guided by this pre-Second-World-War Anglo-American legal-sexual belief, inserted as a cluster of words in 6.(1)(b), that all non-spousal, non-marital interpersonal, sexual activities are crimes. This dogma criminalizes all forms of services provided in the sex sector of our economy, and, also all non-commercial inter-personal

sexual activities outside marriage. This spirit of legal-sexual Puritanism, borrowed from the Anglo-Americans is completely at odds with the reality of our sexual life, including our sex sector.

6. In accordance with this spirit, section 3 of IT (P) A declares that all work sites and homes of our sex workers are sites of criminal activities. This helps hooligans and gangsters, in cahoots with the police, to keep us sex workers under conditions of perpetual homelessness and insecurity. Further, its section 4 declares that all adults eating our bread, including our parents and children, are criminals.
7. The IT (P) A conflates all non-marital sexual activity with sex work and, further, all sex work with trafficking in human beings. This double conflation effectively criminalizes all non-marital sexual activity, including sex work, on one hand and, turns a blind eye to the vast sea of human trafficking in all sectors of the economy on the other.
8. The revised draft of the IT (P) A awaiting approval of the Parliament has deleted, revised and added some sections/sub-sections, while basically retaining its anti-sex-worker and anti-human-sexuality spirit intact, even enhancing it in some cases. According to the new sub-section 5(c) of the revised draft the customer of a sex worker will be considered a culprit. Why? No one knows. Perhaps because it is fashionable to do so in some North-European countries. When the customer is persecuted, neither the market demand for sexual services vanishes, nor does the security of the sex worker increase. The entire sex sector, however, is forced to go underground. This is not only going to be very dangerous for the sex worker, who will be delivered to the wolves of the underworld on a platter, it will also have catastrophic consequences for the sexual health of our people. The service providing workers and customers of our vast sex sector will no more visit our STD/HIV clinics. Nobody will be able to ensure safe sex practices or monitor incidence of STDs or of HIV/AIDS in the sex sector. In reality our marketized sex sector and our domestic sexual life happens to be one continuous borderless territory. In this borderless sexual field, the AIDS pandemic will spread like a wild fire. Several generations of Indians will die, due to the idiocy of a few.
9. We demand that the IT (P) A be repealed in the interests of the millions of workers and customers of our sex sector and, that of the sexual health of our people. We demand that sex work be put in the occupation schedule of the Ministry of Labour. Once we sex workers start enjoying all the rights that the other workers of the land enjoy - then the STDs and, the raging HIV/AIDS pandemic can be successfully tackled by us, as occupational health hazards of the sex sector. We are, and can continue to be, the best allies of the government in its fight against AIDS, if it is really serious.
10. Being moral is about being good. The effect of ITP (A), even with the proposed amendments and perhaps even more so because of some of them, upon our sex sector and our sexual health is simply evil. On that count our so-called 'Immoral Traffic (Prevention) Act' is itself singularly immoral. This anti-sex-Worker Act only helps line the pockets of the immoral guardians of our law.

11. So why put up with this immoral IT (P) A, which is singularly clueless about human trafficking in our country? Let us scrap it. Let us tackle real issues instead. These are the realities of: sexual exploitation of girls and child brides in the vast majority of our homes, where trafficking begins; our stunted, topsy-turvy yet multi-faceted sexual culture; our sex-ratio imbalances; our avoidance of sex education; and the reality of human trafficking in our vast human ocean of wage less slavery.
12. Our country is facing an AIDS pandemic. This is the worst possible time for indulging in patch working upon a basically anti-people law. It is high time we recognize the reality of our sex sector and, repeal the IT (P) A, lock stock, and barrel.