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RIGHTS OF SEX WORKERS IN INDIA

AUTHORED BY - SNEHA SANTHOSH, PUNNYA PR & Yumna Kp

When it is clear that the sex-worker is an adult and participating with consent, the police must refrain from interfering or taking any criminal action”. This was decreed by a 3-judge bench of the Supreme Court in the 2022 landmark case of *Budhadev Karmaskar v. State of W.B*¹. The court directed that the recommendations from a panel constituted in its earlier order of 2011 be implemented by all the states/UTs. One of the recommendations was for various governments to involve sex-workers while making policies concerning them. Two years since the ruling, the legislature is yet to act.²

The rights of sex workers in India have long been a topic of debate and concern, as they face social stigma, discrimination, and legal challenges, despite their contributions to the economy. Sex work, though criminalized under sections of the Indian Penal Code (IPC), is not illegal per se in the country. However, laws such as the Immoral Traffic (Prevention) Act (ITPA), 1956, continue to regulate and penalize aspects of sex work, such as solicitation and brothel management, without addressing the rights of the workers themselves.

Sex workers in India are often marginalized and denied basic human rights, including access to healthcare, education, and legal protections. They face exploitation, abuse, and violence from clients, law enforcement, and even their own families. The stigma surrounding their profession frequently results in their exclusion from mainstream society and reinforces economic vulnerability, making it difficult for them to break free from cycles of poverty and exploitation.

Despite these challenges, numerous organizations and activists have been advocating for the decriminalization of sex work and the recognition of sex workers' rights as workers. These efforts emphasize the importance of ensuring safer working conditions, preventing human trafficking, and providing access to social security and legal protections. Advocates argue that

¹ *Budhadev Karmaskar v. State of W.B.*, 2022 SCC OnLine SC 704, 6(i).

² *Id.*, ¶6(viii).

decriminalizing sex work would not only reduce exploitation but also empower sex workers to assert their rights and seek justice when needed.

In recent years, there have been some positive developments, such as the recognition of sex workers as workers in the formal labour sector in some parts of India, but much remains to be done. To truly protect the rights of sex workers, a comprehensive legal and social reform is essential, focusing on empowerment, dignity, and equal rights for all individuals regardless of their profession.

Although India has ratified several international covenants on women rights and has a constitution that expressly condemns discrimination and exploitation based on sex and gender, it has not been successful in effectively guarding and promoting the human rights of women, especially sex workers in India. This sad state of affairs is manifested by the intensity and extent of violence that exists in the sex industry, discrimination at the hands of the police and judiciary, exploitation during employment, concerns relating to health, safety and security of the sex workers and their children, presence of minors in the sex industry, issues of lack of consent and consultation, extortion and pimping, abjuration of self-determination and psychological abuse. The paper highlights the plight of sex workers in India and reflects on the challenges that are encountered by them. The existing policy framework for protection of sex workers' rights through techniques of rescue and rehabilitation is ineffective in safeguarding their interests since it is governed by the principle that sex work is immoral. Therefore, the paper proposes an alternative hypothesis which revolves around the idea of redefining prostitution as sex work and further on, legalising and decriminalising sex work in order to protect the human rights and health of sex workers in India.