



Dialog on Human Rights : A Reflection of Contemporary Society

Sub-theme : Human Rights of Sex Workers In India

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Abstract : The transforming of sustainable management and governance for natural resource can be organs as a social learning involving all types of social workers like experts, political leader, scientist, local actors and their corresponding scientific and non-scientific knowledge require all new spaces of Transgender people have a gender expression that differs from their sex assigned at birth. There are certain socio-cultural groups of transgender people who are identified as Hijras, jogappas, Sakhi, Aradhis etc. and there are people who do not belong to any of the groups but are referred to as transgender person. By transgender rights, we mean the right to exist without fear of harassment, violence and discrimination simply because of being a transgender. The problems faced by the Transgender community in India include : Discrimination. The legal status of transgender people varies greatly around the world. Transgender individuals are often marginalized and encounter stigma and discrimination due to their sexual orientations, gender identities and expressions. Most transgender people in India work in the informal spheres of sex work and street begging, but a lucky few find low-salary jobs at NGOs or service places. The Government of India, over the course of years, has made consistent and significant efforts in designing and working towards a trans-inclusive society. The paper deals with the Transgender rights and status in India as well as the challenges they face and the opportunities and welfare schemes provided to them.

Keywords : *Transgender, Discrimination, trans-inclusive, welfare, socio-economic status.*

Introduction : Human rights by its origin and nature advocate the welfare and well-being of all persons with equal treatment everywhere, it never discriminate towards any individual, class or group of people in any society. Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. These rights are the basic rights and freedom that belong to every person in the world, from birth until death. Human rights are standards that recognize and protect the dignity of all human beings and govern how individual human beings live in society and with each other, as well as their relationship with the state and the obligations that the state have towards them.

There are various contemporary definitions of human rights. The UN defined human rights as those rights which are inherent in our state of nature and without which we cannot live as human beings. These are the rights that everyone has equally by virtue of their humanity. Human rights can be defined as those minimum rights which every individual must have against the state or other public authority by virtue of his being a member of the human family. The term 'human rights' came into usage after the second world war particularly with the founding of the United Nations in 1945.

Human rights are needed to protect and preserve every individual's humanity to ensure that every individual can live a life of dignity and a life that is worthy of a human being. Human rights safeguard the environment for the benefit of society and the individuals who live there. In generic term, human rights embraces civil rights, liberties, social, economic and cultural rights, but the idea of human rights is bound up with the idea of human dignity (Agarwal, 2010), "Human Dignity" is the soul of human rights (Verma, 2002).

Sex Workers : A sex worker is a person who provides sex work, either on a regular or occasional basis. The term is used in reference to those who work in all areas of the sex industry. Sex work as an organized trade which involves pimping, soliciting, exploitation, renting out of property for sex work. Sex worker is a popular term used for prostitute across the world, The term sex work refers primarily to prostitution, but also encompass adult video performers, phone sex operators, webcam models, dancers in strip clubs, and others who provide sexually-related services. Some extend the use of the term to include "Support Personnel" such as managers, agents, videographers, club bouncers and others. There are also many male and non-binary individuals engaged in providing sexual services. Sex workers are adults who receive money or goods in exchange for consensual sexual services or

erotic performance, whether regularly or occasionally.

Sex worker is a popular term used for prostitute across the world. **Supreme Court of India** on **May, 19, 2022** upheld that everyone, including sex workers are guaranteed the right to dignity and life under **Article 21** of constitution of India. Thus, sex workers cannot be harassed and arrested legally. In India different name have been used since ancient time like Ganika, Devdasi, Tawaif. In this paper, sex worker means the following sex workers :

- The sex workers who are in sex trade because of poverty but want to leave sex trade.
- The sex workers who are aged and want to leave sex trade to support their children.
- The sex workers entered in sex trade by force & fraud or sold by parents but rescued from sex trade.
- Child sex workers, rescued from such trade.

Human Rights of Sex Workers in India

India is a signatory to numerous international agreements on the rights of women and has a constitution that prohibits discrimination and exploitation by gender, but it has failed to satisfactorily protect the human rights of women, particularly those of sex workers. Sex workers are entitled to live free of discrimination, stigma, and violence. Sex worker rights have generally focussed on decriminalizing sex work as a tool to ensure fair treatment.

Sex worker rights are human rights - "We

have chosen to advocate for the decriminalization of all aspects of consensual adult sex - sex work that does not involve coercion, exploitation or abuse. This is based on evidence and the real life experience of sex workers themselves that criminalization makes them less safe." — **Amnesty International**.

Stigmatization is experienced as the major factor that prevents women in sex work from accessing their rights. Due to this discrimination, women in sex work have been denied safety, proper healthcare, education and most importantly, the right to practice the business of making money from sex. It prohibits trafficking, beggar and any other form of forced labour, and it includes sex work as well. No person should be trafficked and forced to work as a sex worker. Sex workers are entitled to live free discrimination, stigma and violence. As all people, their rights to life, health, privacy and bodily autonomy should not be infringed upon. The **Supreme Court** in its judgement and order dated **February 14, 2011**, took into consideration the social position of sex workers. The court declared prostitution to be a legal profession and also said that sex worker are entitled to their fundamental rights as any other citizen of the country. Sex workers rights have generally focused on decriminalizing sex work as a tool to ensure fair treatment. The sex workers rights movement began in 1970s and in many countries, works to improve working conditions, increase benefits and eliminate

discrimination on behalf of individuals working within the sex industry, whether legal or criminalized. Sex worker's rights encompass a variety of aims being pursued globally by individually and organizations that specifically involve the human, health, and labour rights of sex workers and their clients. The goals of these movements are diverse, but generally aim to legalize or decriminalize sex work, as well as to destigmatize it, regulate it and ensure fair treatment before legal and cultural forces on a local and international level for all persons in the sex industry. The Indian policy approach, at least in the statutes, has been to try to achieve a mix of the different methods, with a careful balance between the views that sex work is immoral, that the sex trade is exploitative, and that sex worker rights need to be protected. As per the Indian context, prostitution is not explicitly illegal as it is not specifically expressed prostitution to be punishable by law but few activities related to prostitution such as running brothels, soliciting, trafficking and pimping are all punishable offence in India under **the immoral traffic (prevention) act, (1956)**. Human rights by its origin and nature only advocate the welfare and well-being of all persons with equal treatment everywhere, it never discriminate towards any individual, class or group of people in any society. But Indian Government at all level have failed to protect the human rights even civil rights of sex workers.

Protection of the Rights of Sex Workers

It Includes —

1. Prevention of trafficking.
2. Rehabilitation of sex workers who wish to leave sex work.
3. Conditions conducive to sex workers to live with dignity.

Parallel to these, the court has directed the states and unions to act in strict compliance with the following recommendations —

1. Any sex worker who is a victim of sexual assault should be provided with all facilities available to a survivor of sexual assault.
2. Police should treat all sex workers with dignity and should not abuse them, both verbally and physically, subject them to violence or coerce them into any sexual activity.
3. Guidelines for the media to take utmost care not to reveal the identities of sex workers during arrest, raid and rescue operations.
4. Measures that sex workers employ for their health and safety must neither be construed as offences nor seen as evidence of the commission of an offence.
5. The central and state government should carry out workshops for educating the sex workers about their rights.
6. Sex workers can also be informed as to how they can get access to the judicial system to enforce their rights and prevent unnecessary harassment at the hands of trafficking or police.
7. No child of a sex worker should be separated from the mother merely on the ground that she is in the sex trade.

Different Rights enjoyed by the Sex Workers in India

As per our Indian Constitution, the fundamental rights are available to every citizens of India and therefore sex workers being also the citizens are entitled to enjoy the rights. The right to life incorporated under Article 21 of the Indian Constitution is available to a prostitute. The Supreme Court directed the central government and the state governments to make schemes for giving vocational training to the sex workers across the whole country. It is high time to consider prostitution as work and sex workers be given equal rights under Article 14 of the constitution in India.

Perspective on sex workers rights generally fall into two categories. The first is the traditionally feminist perspective that assumes that all people involved in sex work have been coerced, bribed, blackmailed or forced into the trade. Following this perspective, the only approach to giving sex workers their rights is to "free" them from the trade. The other perspective is that sex work is legitimate business and should be treated as such. Indian law has failed to protect the rights and safety of people in prostitution and sex work. The main law dealing with people in sex work is the Immoral Trafficking (Prevention) Act (ITPA) of 1986 which seeks to prevent trafficking of persons in India and prohibits most outward manifestations of sex work, including brothel opening and solicitation. One strategy that has been used by Indian law

enforcement officials has been "rescue and restore" missions.

Problems faced by Sex Workers in different sectors

1. **Law** : Indian law has failed to promote the rights and safety in prostitution and sex work. Not only does it take a moralistic approach, but it is also ambiguous, having sex workers, vulnerable to abuses by police, government officials and petty criminals.

2. **'Rescue and Restore'** : These programs which seek to "rescue" trafficking and underage sex workers are sometimes successful, but always at the expense of the sex worker community.

3. **Stigma and Marginalization** : Stigmatization is experienced as the major factor that prevents women in sex work from accessing their rights. Due to this discrimination, women in sex work have been denied safety, proper healthcare, education and the right to practice the business of making money from sex.

4. **Safety** : People in sex work are not only at a higher risk for violence, but they are also less likely to get protection from the often the very perpetrators of this violence.

5. **Education** : Lack of education is a major inhibitor among both sex workers and their children. Children of sex workers repeatedly report discrimination, ostracization and isolation felt on account of their mother's work.

6. **Health** : Illiteracy, ignorance and fear of the

medical establishment make it different for women to access healthcare. The "whore stigma" often prevents women from getting good medical treatment. Because women have experienced so much discrimination in hospitals, they are unlikely to seek either preventive or curative care, resulting in lower levels of health.

7. HIV / AIDS : Current discourse on HIV/AIDS has served to further stigmatize sex workers by labeling them as "vectors" and "carriers" of the disease. As a result, this "high-risk group" has an even more different time obtaining proper healthcare.

Conclusion :

While sex workers have shown tremendous progress in asserting the rights of sex workers across India, they face an uphill battle as the country continues to foster a globalized economy. For sex workers in India to access and enjoy their rights, massive misgivings and stereotypes about sex work need to be broken down. They are capable of advocating for themselves, and demanding their own rights. While they certainly face discrimination and hardships, people in sex work and prostitution do not need futile pity. They need the rest of society to recognize and fight against their own misconceptions, judgements and unfounded fears. In the end, it can be inferred that for an issue like prostitution, there exists no requirement for any specify cure, such as criminalizing, decriminalizing or sanctioning it.

A set of rules and regulations should be established in order to regulate this industry. The need of the time is to provide them their right to life by providing them the right to live with dignity and also to human curb human trafficking. Every person has a right to live his or her life with dignity and this can be only possible if the prostitution is regularized and initiatives to educate them and provide them skill development training. So that they can take up alternate employment and make a living.

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