

# Recognize Sex Work as Work?

June 9, 2021

The pandemic has hit millions of people and caused a great deal of suffering across communities. But there is one community that is especially hard hit and that is sex workers. Owing to the non-recognition of sex work as “legitimate work”, sex workers have mostly been kept at arm’s length from the government’s relief programmes. COVID-19 has thus provided more reason to consider a long-pending demand of sex workers in India – decriminalisation of sex work and a guaranteed set of labour rights.

**In news:** Recognising sex work as work

**Placing it in syllabus:** Society

**Dimensions**

- Laws which Prohibit Sex Work
- Difficulties they face due to these laws
- A case for legalizing sex work

## Content:

- Sex workers have been an important part of our society but have still remained on the periphery. Society has always been uneasy in accepting them let alone giving them their due share of respect and rights.
- There have been various degrading words which have been assigned to them since ages.
- Even if it is a man who regularly makes use of their services behind the doors, they have seldom been accepted outside the four walls. The patriarchal set-up of the society has mandated their dehumanization, exploitation and degradation for its own benefit.
- The relevance and existence of sex workers cannot be denied in any period of history. Their profession has also been seen as lowly and seldom recognized as a valid

profession as well.

- They have been discarded as “unwanted social elements spreading filth in the society” and jeopardizing its ‘purity’.

## **Laws which Prohibit Sex Work:**

- The legislation governing sex work in India is the Immoral Traffic (Prevention) Act.
- The legislation penalises acts such as keeping a brothel, soliciting in a public place, living off the earnings of sex work and living with or habitually being in the company of a sex worker.

## ***Other Legislative Provisions related to trafficking and sexual abuse in India:***

- **Immoral Traffic (Prevention) Act 1956:** penalizes trafficking for commercial sexual exploitation.
- **Protection of Children from Sexual Offences (POCSO) Act, 2012**, which has come into effect from 14th November 2012 is a special law to protect children from sexual abuse and exploitation.
- Prohibition of Child Marriage Act, 2006, Bonded Labour System (Abolition) Act, 1976,
- Child Labour (Prohibition and Regulation) Act, 1986, Transplantation of Human Organs Act, 1994,

**IPC sections Sections 372 and 373** dealing with the selling and buying of girls for the purpose of prostitution.

## **Difficulties they face due to these laws:**

### ***Archaic Law undermines Consent:***

- This Act represents the archaic and regressive view that sex work is morally wrong and that the people involved in it, especially women, never consent to it voluntarily.

- In the popular depiction, entry into sex work is involuntary, forced, and through deception.
- As a consequence, it is believed that these women need to be “rescued” and “rehabilitated”, sometimes even without their consent. While this is a valid argument for minor girls, for many consenting adult sex workers, it has been a problem.
- The Act fails to recognise that many women willingly enter into agreements with traffickers, sometimes just to seek a better life as chosen by them.
- Evidence shows that many women choose to remain in sex work despite opportunities to leave after ‘rehabilitation’ by the government or non-governmental organisations.

### **Prejudice:**

- This is what has led to the classification of “respectable women” and “non-respectable women”.
- This view is based on the belief that sex work is “easy” work and no one will or should choose to practise it. It thus perpetuates the prejudice that women who do practise sex work are morally devious.
- Most sex workers are Dalits, migrants, or belong to the LGBTQ+ community.

### **Discrimination and Harrassment:**

- The Act has not only criminalised sex work but also further stigmatised and pushed it underground thus leaving sex workers more prone to violence, discrimination and harasssment.
- The Act denies an individual their right over their bodies. Moreover, it imposes the will of the state over adults articulating their life choices.
- It gives no agency to the sex workers to fight against the traffickers and in fact, has made them more susceptible to be harassed by the state officials.

There is a dispute that exists between the proponents of anti-human trafficking and pro-sex work. Both are severely divided on their views towards commercial sex.

- The **anti-human trafficking supporters** see the demand for sex in the market as a reason for the proliferation of human trafficking.
- Those taking a stance against sex work as work, stick to the conservative terminology of 'prostitution' for consent.
- Shakti Vahini argues that the recognition of sex work as work is a violation of the fundamental right to livelihood for those who practice it. The 'end demand' policy embodies this abolitionist standpoint.

On the other hand, **pro-sex work camp** seeks recognition of sex work as work, arguing that only consolidation of labour rights within sex work can help stop human trafficking.

## **A case for legalizing sex work:**

### ***Need for Distinction between Trafficking and Consent:***

- The **Justice Verma Commission** had also acknowledged that there is a distinction between women who are trafficked for commercial sexual exploitation and adult, consenting women who are in sex work of their own volition.

### ***Right to Livelihood and Life with Dignity:***

- Adult men, women and transgender persons in sex work have the right to earn through providing sexual services; live with dignity; and remain free from violence, exploitation, stigma and discrimination.

### ***'Raid and rescue model' is Counterproductive:***

- **Global Network of Sex Work** holds that constant raids deny the value of an adult person's agency to consent

and is counterproductive.

- It disturbs their power dynamic with the law enforcement institution and clients.

### ***Abolitionist approach only makes protecting victims difficult:***

- The recognition of it being valid work by no means implies closing all exit points.
- Forced labour and trafficking of any person for any purpose at any place is a crime that should be brought to justice.
- The **National Network of Sex Workers** argues that the workers could in fact be of help to the law enforcement agencies, by helping them identify victims and perpetrators in the complex trafficking rackets.
- The clubbing of girl child and adult consenting women is used to justify unreasonable restrictions on sex work which only makes the problems in the industry worse and hidden from the law.

### **Supreme Court's View:**

- The Supreme Court, in **Budhadev Karmaskar v. State of West Bengal (2011)**, opined that sex workers have a right to dignity.
- The **Seventh Report of the Panel on Sex Work**, constituted by the Supreme Court in 2012, recommended **adopting community-based rehabilitation**, against institutional rehabilitation, thereby recognising the efforts of existing unions and organisations.

### **NHRC Advisory:**

- In an advisory in November 2020, put out by the **National Human Rights Commission [NHRC]**, sex workers were recognized as **informal workers under the category, 'Women at Work'**.
- The NHRC advisory on 'rights of women' issued to the Centre and all state governments came at a time when sex

workers were facing adversities during the COVID-19 pandemic.

**Mould your thought:** Should sex work be consider as work? Give reasons for your view.***Approach to the answer:***

- Introduction
- Discuss the past and present situation related to sex work
- Discuss the benefits of recognising such work
- Discuss the harms of such activities
- Based on the discussion give your opinion on the matter
- Conclusion