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“Women have a special place of pride and honour in India” Lok Sabha Speaker Meira Kumar

Sex Workers meet Law Makers

1st March 2011 @ Speaker Hall

Many laws, instead of helping, get in the way of progress and welfare, and such laws, I say, must change," said Union Minister of State for Health and Family Welfare, Dinesh Trivedi, booming the need for reform. Organized by the Lawyers Collective and National Network of Sex Workers (NNSW) in the Constitution Club of India on 1st March, the interaction between sex workers and law makers saw several prominent Parliamentarians express firm support for empowerment and give thumbs down to laws that create fear among sex workers.

The other speakers included Oscar Fernandes (MP and President, Forum of Parliamentarians on HIV and AIDS), D Raja (MP), Hannan Mollah (Former MP), Basudeb Acharia (MP), Mani Shankar Aiyar (MP), Justice A.P Shah (Former Chief Justice, High Courts of Delhi and Madras), Caitlin Wiesen (Country Director, United Nations Development Programme), Sapna Gayen (Durbar Mahila Samanvay Samiti) and Veena Karnataka Sex Workers' Union).

Describing their meeting with MPs as "positive and encouraging," Bharti Dey (National Network of Sex Workers) replicated – "everyone agreed that sex workers have the right to live with dignity." While some Parliamentarians like Prof. Sk. Aidul Haque (MP), felt that respect could be accorded by recognizing sex work as work, others like J.D Seelam (MP) were of the opinion that dignity means not living a stigmatized life. But all MPs unanimously stated that criminalization affronts sex workers' dignity and must be done away with." Politicians also observed that while some may consider sex work immoral, that does not make it illegal.

"In her message, Priya Dutt (MP) addressed us as women with an unconventional job, who are entitled to security, health and livelihood" – exclaimed Kokila, a sex worker who travelled all the way from Chennai to talk to law makers about her profession.

This comes in contrast to the recent observations of the Supreme Court that wanted sex workers to give up their work and take up other vocations. "This is feeble sympathy", remarked Veena. "What we need are practical measures that free us from



Oscar Fernandes (MP), Basudeb Acharia (MP), Hannan Mollah (Former MP) with other dignitaries during an interactive session between sex workers and law makers.

exploitative elements, which are a creation of criminal law itself. If we can't solicit clients without getting arrested, we will naturally rely on pimps to carry on our trade."

"We will pursue the suggestions of MPs to raise debate on this complex yet pressing issue" – said Tripti Tandon of Lawyers Collective. All is not well with the current law and there is a critical need for change. Sex workers have a long drawn battle ahead. Around 200 sex workers were present in the meeting.

There are about 12.63 lakh female sex workers, considerable number of transgenders and male sex workers in India. The last two decades has seen the emergence of sex workers' collectives, mobilizing around health, education, livelihood and social security, and protection from violence. Across the country, sex workers' are claiming equal opportunity before law. Sex workers in Kolkata have developed the renowned peer education model for prevention of HIV, built schools for their children's education and opened banks and credit facilities to reduce indebtedness. In Mysore, sex workers run a popular restaurant, dispelling the social stigma attached to sex work. In Bengaluru, sex workers have formed a trade union and are demanding labour standards. Sex workers in Sangli use film and theatre medium of 'Sangli Talkies' to articulate their experiences to the world at large.

While the above examples mark a welcome break from disempowerment, sex workers' efforts to improve their lives is obscured by criminalization. Prostitution per se is not illegal but sex workers' are restrained under

the Immoral Traffic (Prevention) Act, 1956 (ITPA) with dangerous consequences, especially for the control of sexually transmitted infections and HIV.

"The Immoral Traffic Prevention Act (ITPA), 1956 was enacted to inhibit organized prostitution and trafficking, especially in women and children. The Act does not proscribe sex work per se but penalizes specific activities related to commercial sex such as brothel keeping, living off earnings of sex work, procuring, inducing or detaining for prostitution. Sex workers and clients are punishable for prostitution in public places and for soliciting. All offences are cognizable i.e., the police do not require a warrant to conduct search or make arrests. Police personnel entrusted with the implementation of the Act are accorded extraordinary powers to investigate. Magistrates are authorized to order closure of brothels and evict sex workers.

"Criminalization affronts sex workers' dignity and must be done away with"

Rehabilitation is synonymous with detention for indeterminate periods.

The ITPA has failed to prevent forcible entry of young persons into sex work. Instead, the maximum arrests and convictions are against sex workers, for holding themselves out

as such. Sex workers are unable to support their family and dependent as earnings from prostitution are penalized. Fear of arrest by the police makes it difficult for sex workers to negotiate for safe sex. Peer educators carrying condoms are harassed and accused of promoting prostitution. Places where the ITPA is invoked to close down brothels witnessed disruption in delivery of health and HIV services. Under the pretext of medical examination, sex workers are compelled to undergo mandatory HIV testing without counseling, consent and protection of confidentiality. Forcible raids and rescue are accompanied by violence and rights abuses. Overall, the ITPA dis-empowers sex workers- robbing them of health, safety and protection from HIV."

Through this interface, sex workers appraised MPs of the problems associated with criminalization of sex work. Parliamentarians responded with further questions or solutions, applicable locally or nationally. The interaction also enabled sex workers to understand parliamentary processes including opportunities for raising debate on policies that affect them. Policy makers and representatives from UN agencies discussed various programmes, undertaken by them, for sex workers.

National Network of Sex Workers (NNSW) is a national representative body of female, male and transgender sex workers, with membership from 10 states. The Lawyers Collective is an NGO that seeks to create a just, rational and non-discriminatory response to HIV through litigation, policy advocacy and research.