

Manual on Legal Rights of

# Female Sex Workers



EQUALITY - INCLUSIVITY - DIVERSITY

## ACKNOWLEDGMENTS

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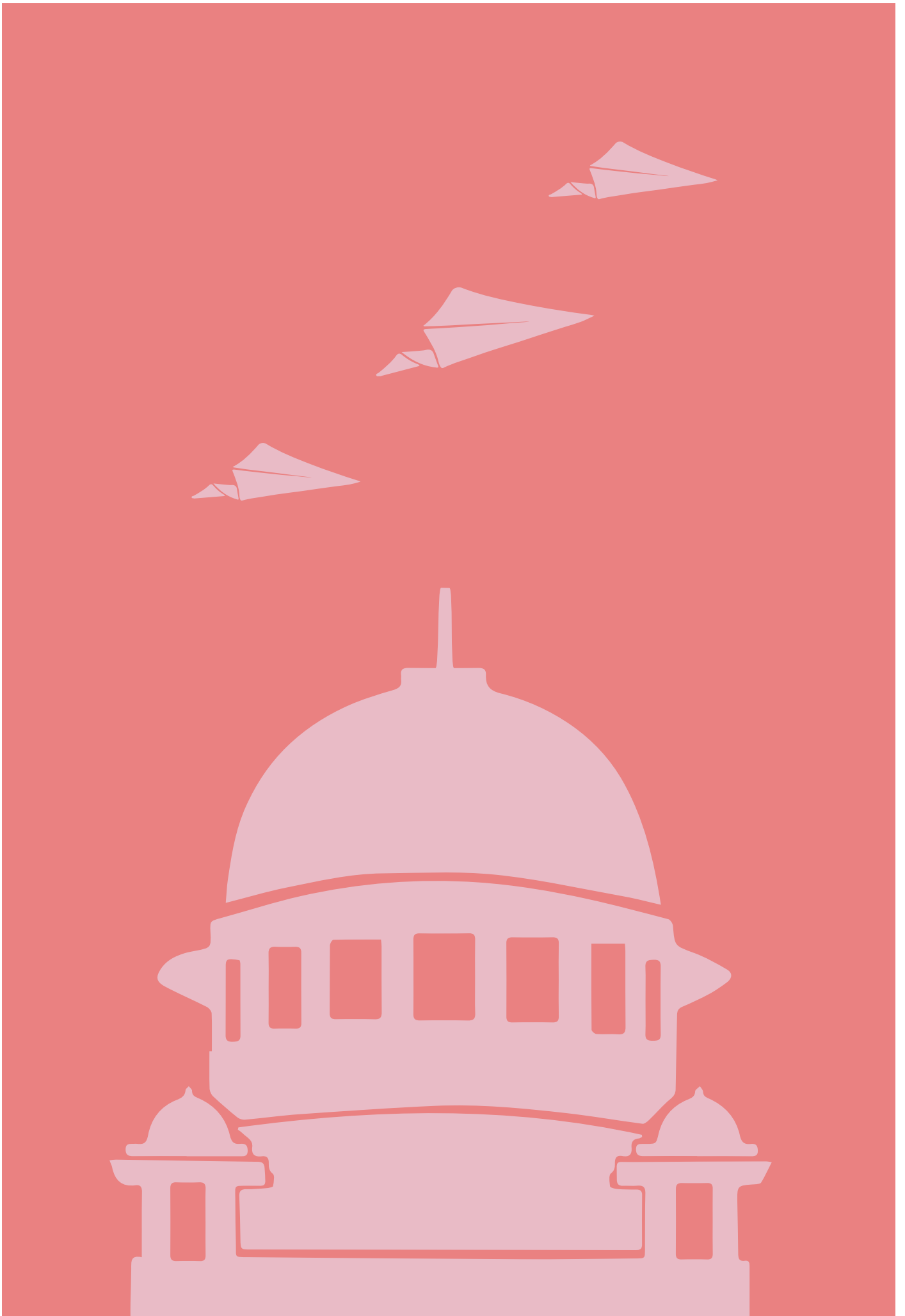


# INTRODUCTION



Due to the nature of their work, Female Sex Workers (FSWs) often face social ostracization, discrimination, and violence from larger communities. FSWs also face significant health risks, including exposure to sexually transmitted infections (STIs) and HIV/AIDS. Despite efforts to provide healthcare services, access remains a challenge due to stigma, discrimination, and a lack of awareness.

Despite the challenges they face, FSWs have also been striving for the recognition of their rights. Grassroots organisations and advocacy groups play a crucial role in amplifying their voices, advocating for policy reforms, and providing essential services such as legal aid, healthcare, and vocational training. This Manual aims to empower the community by shedding light on the rights that have been affirmed by the Supreme Court of India.



# RESEARCH METHODS



The development of this Manual involved a meticulous desk review. This review encompassed a thorough examination of all central government legislations pertaining to Female Sex Workers (FSW). This in-depth analysis served the critical purpose of constructing a complete picture of the legal rights currently asserted by the community. In addition to the legislative review, all relevant judgments passed between the years 2011 and 2023 were examined.

Additionally, the research involved a community consultation component. This consultation process was crucial in ensuring that the manual addressed not only the legal rights of the FSW community, but also their lived experiences and specific needs. By engaging directly with community members, the research team was able to gain valuable insights into the challenges faced by the community and tailor the Manual's content accordingly.

Finally, the information gathered through the research process was translated into a user-friendly format. The Manual is structured for ease of use, with each section further divided thematically. This thematic organisation allows for clear and organised information, enabling the reader to readily locate relevant legal provisions and their interpretations.

**How to read the Manual:** This Manual has been written with the intent of informing the community of the legal basis for their rights and lay down points for further advocacy. Trainers should apply their discretion while conducting sessions and share relevant information to the community. The Manual contains a thematic classification of existing rights available to the community.

# Right to Employment



**Sex work is regulated in India under the Immoral Trafficking Prevention Act (ITPA), 1956.**



## WHAT IS PERMITTED



### **VOLUNTARY ADULT SEX WORK**

If an individual is above 18 years of age, they are allowed to engage in sex work under the law. The law cannot punish them for engaging in sex work with a client who is also an adult and is aware that the sexual activity is in return for compensation. They cannot be forced into sex work by anyone.

### **SEX WORK IN PRIVATE**

Engaging in sex work in private places such as the sex worker's own home or a hotel room, cannot be punished. The law can be used to punish the sex worker only if she attempts to solicit clients in public spaces or undertakes sex work in a manner prohibited by law.





## WHAT IS NOT PERMITTED

### **SOLICITATION IN PUBLIC**

The law prohibits soliciting clients for sex work in public places. This includes soliciting potential clients from the streets, balconies, windows of buildings that are easily visible from public places, etc. Individuals are also not allowed to use words, actions, or expose skin in a public place to solicit clients.<sup>1</sup>

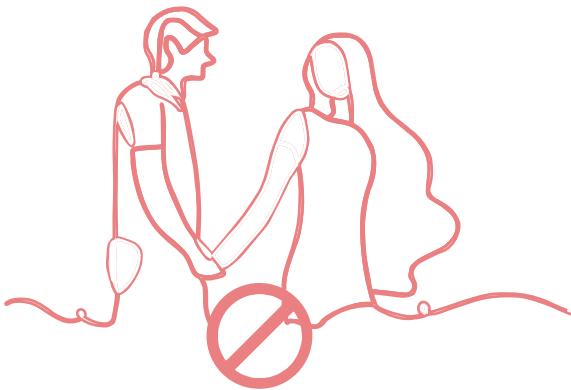


### **SEX WORK NEAR CERTAIN PUBLIC PLACES**

Sex workers are not allowed under the law to engage in sex work or solicit potential clients within 200 meters of the following places:

- a place used for religious worship by the public
- a place of education
- a hostel
- a healthcare centre
- a nursing home

Violating this law could result in imprisonment for up to three months.<sup>2</sup>



### **BROTHEL-KEEPING**

Running or being involved in running a brothel is not allowed by law. A "brothel" is any place where sex work is practised by two or more sex workers.<sup>3</sup>

1 - Section 8, The Immoral Trafficking (Prevention Act) 1956

2 - Section 7, The Immoral Trafficking (Prevention Act) 1956

3 - Section 3, The Immoral Trafficking (Prevention Act) 1956







## WHAT IS NOT PERMITTED

### **LIVING OFF THE EARNINGS OF PROSTITUTION**

It is illegal under the ITPA to live off the earnings of someone else's sex work. This means that anyone who knowingly lives off the income generated by someone else's sex work could be prosecuted under the law. This may result in imprisonment of up to two years or with a fine of one thousand rupees or both.<sup>4</sup>



### **PROCURING, TRAFFICKING, & EXPLOITATION**

The law prohibits convincing, forcing or taking someone else to do sex work (trafficking).

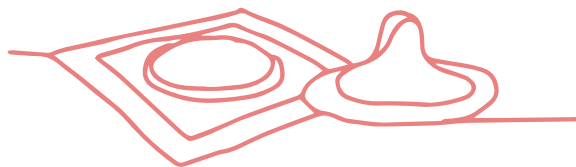
### **CHILD SEX WORK**

Persons under 18 years of age are prohibited from doing any form of sex work under both the ITPA and POCSO. Any information on a minor doing sex work must be reported to the police or the Community Based Organisation (CBO). Under the law, engaging in any form of sexual activity with persons under 18 is illegal.



## **WHAT HAPPENS IF THERE IS A POLICE RAID AT THE BROTHEL?**

Brothels are illegal. If the police raid the brothel, they can arrest the manager or person who runs it and also shut down the brothel. But if you are just doing sex work without forcing other persons to do it, they cannot arrest, harass, threaten and ask money from you.<sup>5</sup>



## **RIGHT TO USE MEASURES FOR HEALTH AND SAFETY (CONDOMS ETC)**

Sex workers have the right to ask their clients to use condoms and refuse to engage in sex work if they don't use them. Sex workers also have the right to use measures such as condoms and contraceptives for their health and safety. The law does not punish them for buying condoms and other contraceptives.<sup>6</sup>

5 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022

6 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022

# Governance & Access to Public Service Delivery



## OBTAINING AN AADHAR CARD

Sex workers have the right to obtain an Aadhar card without submitting proof of residence. For this, the following documents are required:

- A proforma certificate issued by the UIDAI (this has to be submitted by the Gazetted Officer at National AIDS Control Organisation (NACO) or the Project Director of the State Aids Control Society)
- Aadhaar enrolment form/application.



## RIGHT TO RATION CARD AND A VOTER ID WITHOUT SPECIFYING PROFESSION, AND WITHOUT ADDRESS PROOFS

Sex workers have the right to obtain voter identity cards and ration cards if their name is mentioned in the list maintained by NACO, a list prepared by Community Based Organisations and verified by the concerned District Legal Service Authority/State AIDS Control society. Once the verification is done, the list will be sent to the concerned authorities for issuance of voter/ ration cards.<sup>7</sup>

7 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 14-12-2021

# Civil Rights



## RIGHT AGAINST SEPARATION FROM THEIR CHILDREN

Sex workers have the right to bring up their children, and reside with them. No one is allowed to forcibly separate their child from them solely because they are a sex worker. Even if your child lives with you in a brothel, or the company of other sex workers, it cannot be presumed that the child has been trafficked. In case any authority tries to take away the child, the sex worker has the right to claim her child by undergoing medical tests. If the claim is correct, the child cannot be forcibly separated from its mother.<sup>8</sup>

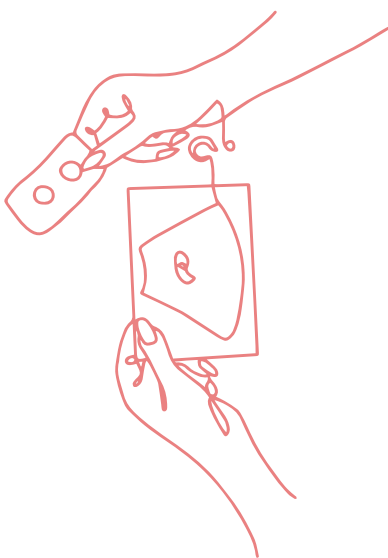


## RIGHT TO ABORTION

The Right to Abortion is governed by the Medical Termination of Pregnancy Act, of 1971. The law permits a woman to get an abortion within 20-24 weeks from the date of conception. Under the law, a woman may terminate her pregnancy within 20 weeks with one registered doctor's opinion if:

- a) The pregnancy poses a risk to her physical or mental health.
- b) There is a risk of injury to the health of the child.
- c) The pregnancy is a result of contraceptive failure.
- d) The pregnancy is a result of rape.

The woman can seek abortion between 20-24 weeks of conception upon the opinion of two medical practitioners. However, aborting a child after 24 weeks or without consultation with a registered doctor/(s) is considered a crime.<sup>9</sup>



8 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022

9 - Section 3, Medical Termination of Pregnancy Act, 1971

## HIV RELATED RIGHTS

Individuals who are HIV positive and/or reside with someone who is HIV positive, have the right to not be discriminated against based on their medical condition.

The right against discrimination includes protection from the following:

- Termination or denial or unfair treatment of employment of a person having HIV or a person living with a HIV positive person;<sup>10</sup>
- Denial of accommodation, discrimination/unfair treatment in healthcare facilities and educational institutions.<sup>11</sup>

An individual cannot be subject to HIV testing as a part of their employment or education. Individuals have a right to say no to such requests from their current or prospective employer.<sup>12</sup> Promoting discrimination or inciting violence or hatred against HIV-positive persons either through spoken or written words is prohibited.<sup>13</sup> HIV tests when conducted should include pre-test and post-test counselling. Health care centres are not allowed to conduct tests without counselling the individual undergoing the tests.<sup>14</sup> Individuals are under no obligation to disclose their medical condition unless a court order or a government official requires it for monitoring, evaluation or supervision.<sup>15</sup>

However, a healthcare provider may disclose an HIV positive person's condition to another colleague to consult on the person's treatment, they can also disclose this to an HIV positive person's partner if they feel their partner is at risk of transmission of HIV.<sup>16</sup>

10 - Section 3 (a), HIV and AIDS ( Prevention and Control) Act 2017

11 - Section 3 (g), HIV and AIDS ( Prevention and Control) Act 2017

12 - Section 3 (l), HIV and AIDS ( Prevention and Control) Act 2017

13 - Section 4, HIV and AIDS( Prevention and Control) Act 2017

14 - Section 5 (2), HIV and AIDS( Prevention and Control) Act 2017

15 - Section 8, HIV and AIDS( Prevention and Control) Act 2017

16 - Section 8 r/w 9 of the HIV and AIDS( Prevention and Control) Act 2017

# Access to Justice



## RIGHT TO LEGAL AID

If any of the rights are violated, FSWs have the right to seek legal aid. Free legal aid can be claimed in both civil and criminal cases. Women are entitled to free legal aid irrespective of their income or financial status. Free legal aid can be applied for both online and offline. There are no fees involved at any stage. The authority to approach depends on the forum where case proceedings happen. The complete procedure for applying for legal aid services and the list of appropriate authorities can be found in Annexure IV.



## RIGHTS IN CASE OF SEXUAL ASSAULT

The Supreme Court has directed that any sex worker who is a victim of sexual assault should be provided with all facilities available to a survivor of sexual assault, including immediate medical assistance, in both government and private hospitals, free of cost, in case of acid attack or rape.<sup>17</sup> In such cases, the hospitals will have to notify the police. However, the sex worker's name cannot be revealed to the media.

<sup>17</sup> - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022



## RIGHTS AGAINST INCARCERATION

Under Article 22 of the Constitution of India, individuals cannot be arrested or held by the police without proper procedures. The Criminal Procedure Code, 1973 lays down the procedures to be followed by police:

- If someone is arrested, they have the right to be informed of the grounds of their arrest. If someone has been arrested by the police based on an arrest warrant, they have the right to ask to see the arrest warrant.<sup>18</sup>
- If the police have arrested someone without a warrant, the police have to produce the arrested person before the Magistrate within twenty-four hours of arrest.<sup>19</sup>
- If someone is arrested, they have the right to know if they are eligible for bail. If they are eligible for bail, they have the right to apply for bail.<sup>20</sup>
- An individual in police custody shall be examined every twenty hours for injuries and the report of the same needs to be given to their nominated representative. This will help an arrested person report any injuries inflicted on them by the police while in custody.<sup>21</sup>
- An arrested person has the right to not be subject to physical/mental abuse while in police custody.<sup>22</sup>
- The police cannot force an arrested person to confess to a crime.<sup>23</sup> A confession before a police officer while in their custody cannot be used as evidence before the court if the arrested person was forced to give the confession.<sup>24</sup> However, if any other evidence against the arrested person is found by the police based on the arrested person's forced confession, that can be used against the arrested person.<sup>25</sup>

18 - Section 50A, Code of Criminal Procedure

19 - Section 57, This applies for those arrested without a warrant.

20 - Section 50, Code of Criminal Procedure

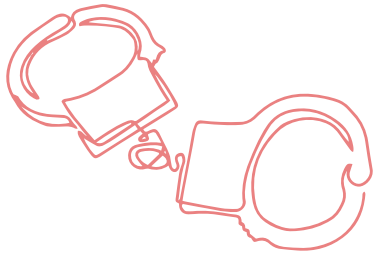
21 - Section 54, Code of Criminal Procedure

22 - Section 55A, Code of Criminal Procedure

23 - Article 20 (3), Constitution of India

24 - Section 24-26, Indian Evidence Act, 1872

25 - Section 27, Indian Evidence Act, 1872.



## RIGHTS UNDER DIGITAL LAWS

While engaging in commercial sexual activities with a client, clients may record the individual on video or take a photo with or without their knowledge. These videos/photos may be used to blackmail the individual or force them to have unpaid sex or perform other acts they are unwilling to do. The client might also threaten to share the content online. Such actions are illegal and constitute a severe crime. The individual has the right to file a complaint against the client with the police. Sex workers may become victims of revenge porn or the sharing of intimate images or videos online without consent, which is punishable by law.

In case an individual finds her image/ videos etc. online and wants this to be taken down, she has the right to complain to the Grievance Officer of the platform for takedown of the content. Every social media platform will have the details of the Grievance Officer listed on its mobile application/ website. Individuals with grievances can contact the Grievance Officer through the contact information provided on the respective websites. The platform is then required to resolve the complaint within fifteen days.<sup>26</sup>

Media persons cannot film individuals without their permission. They cannot force them to disclose their identity and individuals have the right to privacy. They may ask the media persons to delete or blur their faces. Media persons are

<sup>26</sup> - Rule 3(2), The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

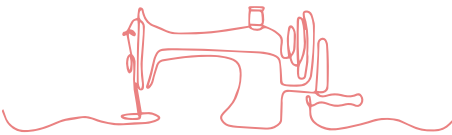


# Advocacy



## WHERE THERE ARE LAWS AND DIRECTIVES

While the courts have vested certain rights in the members of the sex work community directly, the enforcement of some such rights has been left to the hands of the Government and its functionaries. Claiming your rights is a long-drawn process. However, claiming them becomes easier if they have been recognized under the law. Given below is a list of directives from the Supreme Court to various government functionaries in furtherance of the interests of FSWs. The recognition of these points by the Court gives legal backing to advocacy campaigns that FSWs and civil society organisations working for FSWs may undertake in the future.



## SCHEMES FOR EMPLOYMENT WORKSHOPS & TRAINING OF FSWs

In its order dated 14.02.2011, the Supreme Court directed the Central Government and all State Governments to prepare schemes for giving technical/vocational training to sex workers and sexually abused women in all cities in India. The court said that the government should make plans to teach sex workers and women who have been sexually abused some practical skills, like sewing. These schemes should also include ways to help them find jobs using these skills. For example, if they learn to sew clothes, there should be a way for them to sell those clothes so they can make money and support themselves.

## KNOW YOUR RIGHTS WORKSHOP

The Supreme Court has directed the national, state and district level legal services authorities to organise workshops for sex workers to educate them about their rights, what is legal and what is not, the obligations of the police, and means to access the justice system to assert their rights and prevent harassment at the hands of traffickers or the police.<sup>27</sup>



<sup>27</sup> - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022



## RELEASE OF DETAINEES UNDER THE ITPA

The ITPA provides for the establishment of protective homes for those “in need of care and protection.”<sup>28</sup> However, in some cases, even adult women are kept in such homes against their will. The Supreme Court has directed State Governments to survey all such Protective Homes so that adult women who are detained there against their will can be reviewed and released.

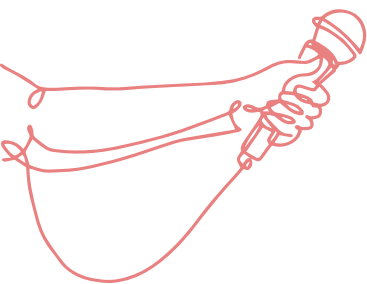
## SENSITIZATION OF POLICE

The Supreme Court has directed the sensitisation of the police and other law enforcement agencies on the rights of the sex worker. Police should treat all sex workers with dignity and should not verbally and physically abuse them, or force them into any sexual activity.



## SENSITISATION OF MEDIA

The Supreme Court has asked the Press Council of India to direct the media not to show the faces of sex workers during arrests or rescue operations. They shouldn't publish photos that could give away who these sex workers are. Also, the Court has directed that the laws on voyeurism should be strictly enforced, especially on TV channels, to stop them from airing photos of sex workers and their clients during rescue operations.<sup>29</sup>



28 - Section 2(g), The Immoral Traffic (Prevention) Act, 1956

29 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022

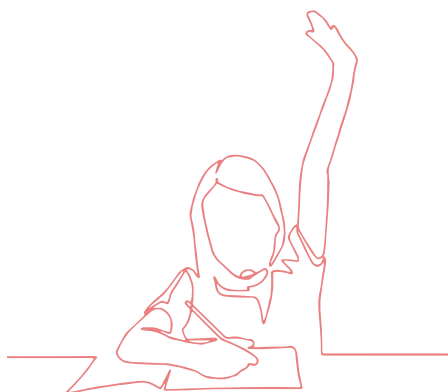
## HELPLINE NUMBERS

The Supreme Court had directed all state Legal Service Authorities to set up helpline numbers for sex workers to provide them with free legal aid.<sup>30</sup> The NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015 however does not envisage the setting up of such helpline numbers. Sex workers are vulnerable to various forms of violence, including physical and sexual abuse. Helpline numbers can serve as a vital resource for reporting instances of violence, seeking immediate assistance during emergencies, and accessing support services such as legal aid, shelter or medical assistance.



## ADMISSION OF FSW'S CHILDREN IN SCHOOLS

In 2011, the Supreme Court directed the Central and State Governments to ensure that the admission of such children to schools is not hampered in any way due to their impaired social status.<sup>31</sup> However, a 2018 study by the National Commission for the Protection of Child Rights found that there is a trend of absenteeism from school among the children of sex workers.<sup>32</sup> This emanates from several factors, such as lack of support from guardians and discrimination and abuse faced at school. There is a need to ensure that the children of sex workers are accorded the opportunity to attend school.



## WIDENING OF UJJAWALA SCHEME

The Supreme Court has recognised the limitation of the Ujjawala scheme in addressing the concerns of only victims of sex trafficking.<sup>33</sup> The Ujjawala Scheme is a comprehensive scheme for the prevention of trafficking and rescue, rehabilitation, and reintegration of victims of trafficking for commercial sexual exploitation. Among other things, the scheme provides food, shelter, clothing, treatment and vocational training to its beneficiaries. The Government is yet to expand the Ujjawala scheme to sex workers who wish to voluntarily leave their profession. Advocating for the inclusion of voluntary sex workers within the ambit of the Ujjawala Scheme would help extend the benefits of the scheme to sex workers in need.



30 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 14-12-2021

31 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 15-09-2011

32 - National Commission for Protection of Child Rights, "Educational Status of Children of Traditional Sex Workers in India" (2018) available at [https://ncpcr.gov.in/uploads/165777490662cfa33a1221a\\_97200164.pdf](https://ncpcr.gov.in/uploads/165777490662cfa33a1221a_97200164.pdf)

33 - Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 24-08-2011

## WHERE THERE ARE NO LAWS AND DIRECTIVES

### ADVOCATING FOR A NEW LAW

Sex work and sex trafficking are different. Sex work involves consensual adult individuals engaging in sexual activities for commercial purposes. Sex trafficking, on the other hand, involves forcing, abducting or deceiving individuals, often minors, for exploitation through commercial sexual activities. Though Indian laws criminalise sex trafficking, sex work is often seen as trafficking, thus making the community vulnerable to social stigma and criminal action. The non-recognition of sex workers has also resulted in their exclusion from several schemes aimed at trafficked victims engaged in commercial sexual activities.

For instance, the Swadhar Greh scheme for housing is only for victims of trafficking while consensual sex workers would also find them beneficial. A law recognising sex workers in India is essential to promote their rights, protect them from harm, and ensure their full inclusion and participation in society.





# **ANNEXURES**

# ANNEXURE I

## COMMUNITY CONSULTATION REPORT

### Overview

The representatives from Humsafar, members of the FSW community and Pacta team members were present at the meeting. The participants who represented the FSW community were briefed on the purpose of the manual. The community consultation was to understand the experiences and daily struggles of the community. They were informed that based on the experiences they share, a manual would be developed to act as a guiding tool for the community trainers to decide the best way to secure legal rights.

Pacta and Humsafar identified a few broad themes to act as discussion prompts for the community. A representative from Pacta and a representative from Humsafar moderated the session to encourage the community to share the experiences. Various members of the community presented their views and opinions. The points put forth by the participants have been compiled in this Manual.

### Participants

(Geography, affiliated organization)

The participants were from different parts of India such as Maharashtra, Delhi, Chandigarh, Chattisgarh, and Punjab.

They were affiliated with NGOs and CBOs including Arth Charitable Trust, Mission Shakti, Apsara Trust, and Ujala CBO.

# **1. Citizen Rights**

## **1.1. GOVERNMENT IDS**

The participants mentioned difficulty in getting Economically Weaker Sections (EWS) certificates. The authorities do not issue the certificates if the mother is living separately from the father of the child, often demanding divorce documentation. They are also asked for their address, which can be used to identify the participants as belonging to the FSW community.

## **1.2. HOUSING**

An FSW representative mentioned that the community faces difficulties in getting accommodation for rent and in hotels. Single women are not given accommodation, and are forced to continuously shift houses. Sometimes, they have to pretend to be in a relationship or cohabiting with men to secure rental properties.

## **1.3. EDUCATION OF THEIR CHILDREN**

The participants expressed their struggles in getting their children admitted to schools. Their children face discrimination when the other students find out that the parent is an FSW.

## **2. Health Services**

### **2.1. ACCESS TO HEALTH SERVICES**

The participants highlighted that they do not get access to counselling for HIV. One of the participants felt that the long wait times at hospitals affected their livelihood and also discouraged them from continuing consultation. Another participant underscored the broader implications, noting that FSWs are at heightened risk of HIV contraction. The discouragement from attending consultations exacerbates this issue, contributing to a larger problem. A transgender person emphasised the need for medical insurance for surgeries such as SRS, and hormonal therapy.

### **2.2. ACCESS TO MEDICATIONS**

Another participant highlighted that persons belonging to other states cannot get medication for their AIDS treatment easily in their resident states.

### **2.3. ACCESS TO MEDICATIONS**

The community drew our attention to the attitudes of the healthcare professionals who judged them for their occupation and treated them insensitively. One participant recounted an incident where a healthcare provider breached confidentiality and displayed discrimination towards HIV-positive patients. A participant added that healthcare professionals do not give proper information to the FSW community when they visit the healthcare centres for consultation which contributes to demotivation among the community members to continue consultation.



## **3. Access to Justice**

### **3.1. POLICE TREATMENT**

The participants have faced significant harassment from the police. One FSW representative noted instances where the police officers have engaged in taunting and demanding free services from the community. They also reported blackmail and threats of physical abuse from police officers. Participants have observed that female police officials tend to be more understanding, whereas male officers often exhibit disinterest in addressing their concerns, instead seeking personal advantages.

The participants stated that the community members fear being caught, and that they have often resorted to providing hafta (extortion money) even when they are doing their work legally. One member recounted an incident in which an FSW provided a reduced hafta, following which, a police raid ensued. Though no presence of underage girls was found in her establishment, she was wrongly charged with trafficking minors, based on false allegations.

### **3.2 CLIENT HARASSMENT**

Participants shared instances where clients would falsely claim to be law enforcement officers and threaten not to compensate them for their services. One FSW told us of how clients would take members of the community to remote places or would unexpectedly find more than one person at the location. Participants also noted instances where customers would capture photos and videos without consent. An FSW recounted an incident where a media personnel, posing as a client, secretly filmed FSWs and broadcasted the footage on their channel, instilling fear within the community.

### **3.3. FORMAL AND INFORMAL MEANS OF JUSTICE**

The participants shed light on how they try to address issues of the community through a Crisis Response System formed by the community, which attempts to solve a problem within 24 hours. This has helped them address issues to some extent.

The participants also emphasised the difficulties in finding a lawyer, especially for issues of the state. FSWs working in spas and parlours are particularly vulnerable. The owner of a spa/parlour escapes after paying a bribe, and the employees who undertake sex work come from different states, hide their occupation from their families and face difficulties in securing bail and legal representation.

## 4. Awareness on Rights

The community mentioned they frequently used social media. The community expressed that they needed more awareness on what is permitted and prohibited as part of sex work, especially the recent developments in law.

### **BROAD ISSUES HIGHLIGHTED BY THE COMMUNITY**

- a) The community highlighted a lack of sensitization among the general public and officials.
- b) The community also mentioned they needed a better understanding of what is prohibited and permitted under law.

# ANNEXURE II

## LIST OF JUDGMENTS

### JUDGMENTS:

1. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 19-05-2022
2. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 28-02-2022
3. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 10-01-2022
4. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 14-12-2021
5. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 15-09-2011
6. Budhadev Karmaskar v. State of West Bengal Criminal Appeal No(s).135/2010, Order dated 24-08-2011

# ANNEXURE III

## **Dos and Don'ts for Trainers**

1. While briefing the community, please note that:

Central Acts and Supreme Court judgments are binding and are applicable throughout India. State Acts and High Court judgments are binding to the applicable State and have persuasive value in other States. Guidelines and policies are not binding and are of persuasive value. Instructions from the nodal body for a particular sector are binding for that sector.

2. Read up and use correct terminology. In case you are unsure of the terminology to be used for members of the community, clarify it with them. If the community or one its members gives you constructive feedback, use this opportunity to reflect on what they are providing and if you need to apologise, do so.

3. Listen carefully, practise active listening and empathy, try to put yourselves in their shoes while listening and addressing their concerns. Do not take their experiences and concerns lightly.

4. When informing them about their rights, provide them with the correct information, and in a simplified manner. For example, they cannot solicit clients from the street; this includes any balconies or windows facing the public streets. In case the members are unable to understand the meaning of certain words, such as "solicit," it is important to explain it to them in simpler language.

5. Clearly distinguish between what they can legally claim and what is yet to be enforced. For example, while the Ujwala Scheme is in force and FSWs who were victims of trafficking are eligible for the benefits, those who became FSWs due to financial difficulties or debts etc, are not yet eligible. Then discuss with the community their thoughts on this limitation of the Scheme.

6. Do not disclose a person's name or other personal details without their consent. Do not pressure individuals to disclose their personal details if they are not comfortable doing so. Respect their autonomy and boundaries.

# ANNEXURE IV

## Forums and processes for availing free legal aid

### Forums:

Jurisdiction	Appropriate Authority
Courts subordinate to district court (at the taluk/ block level)	Taluk legal services committee
District Court	District Legal Services Authority which is in the premises of the District Court in the District Headquarters;
High Court	High Court Legal Services Committee
Supreme Court	Supreme Court Legal Services Committee

### Procedure for applying:

a) All of the above authorities have a front office where an application for free legal aid can be filed.

b) Application can be done online or offline. The online application form is available here. Offline application forms are available at the nearest legal service authority office. Applications can also be written on a simple piece of paper with the necessary details such as name, gender, residential address, employment status, nationality, whether SC/ST (with proof in support), income per month (with affidavit), the case for which legal aid is required, reason for seeking legal aid, etc. and be submitted via post. In case the applicant cannot fill up the form by themselves, paralegal volunteers are also present at Legal Service Authority buildings to fill the application on behalf of the concerned person.

c) The application should also be accompanied by identity proofs and requisite certificates of proof of belonging to a category that is eligible for free legal services. For women, there is no requirement to show income.

# ANNEXURE V

## List of Volunteer Organisations offering Support to FSWs

Name of the Organisation	Address	Contact Information
1. Shakhya Foundation Gandhinagar	1st Floor NR Tower police chowki, Tower Chowk Kalol (NG) 38272	Email: shakhyafoundation@ gmail.com kiritnayak8973@gmail.com Phone:8780592551
2. Basera Samajik Sansthan	C 45 Noida sector 9, New Delhi	Phone : 9540439623
3. Maa Foundation Samiti	2242 Shankar Nagar Suhagi Adhartal Jabalpur, Madhya Pradesh, Pin Code - 482004	Phone: 88396470



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