

Adult consensual sex work not in ambit of Section 370: Activists Welcome Move

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Sex workers and Women's rights activists across India welcome the Government's move to drop the word 'prostitution' as exploitation from the amended Section 370 of the Indian Penal Code. The new formulation targets sexual exploitation and not adult consensual sex work.

The Criminal Law Amendment Bill 2013 passed by the Lok Sabha; recognises an important distinction and clarifies the troubled position till date; conflating consensual adult sex work and the offence of sex trafficking; by inserting a new definition of exploitation as follows;

Expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

This formulation clarifies the Indian Government's position of removing adults voluntarily involved in sex work from the ambit of criminalization, said Meena Seshu from the National Network of Sex workers. By removing prostitution from the language of the law, the Government has given a new lease of life to people in sex work of their own volition and enables them to seek the protection of the law in the event they face violence within sex work.

Says Madhu Mehra, Partners in Law and Development, *"The distinction between sexual exploitation and consensual adult sex work is very significant as it enables the sex workers and their advocates to legally contest oppressive and forced sex work towards creation of safe and dignified work conditions for sex workers"*

Legislations such as the Immoral Traffic (Prevention) Act has been criticized by human rights activists, organisations and sex workers on the grounds that the legal provisions have given law enforcement, unbridled powers of arresting and detaining consenting adult sex workers.

Due to ambiguity within the law, adult consenting sex workers were the first targets rather than focusing on arresting traffickers, said advocate Vrinda Grover. Adults in consenting sex work undergo hardships, violence and lack of protection when their rights were violated by the State and private actors, said Tripti Tandon from the Lawyers Collective, New Delhi.

"We are relieved that the government has finally listened and responded to our advocacy and treat adult consenting sex work as different from sex trafficking" says Sakina Sayyad, Uttara Kannada Mahila Okkutta, Hubli, Karnataka.

A written clarification issued by Justice Verma Commission on the framing of the amended Section 370 which helped to strengthen this stand states, *"The thrust of their intention behind recommending the amendment to Section 370 was to protect women and children from being trafficked. The Committee also clarified has not intended to bring within the ambit of the*

amended Section 370 “sex workers who practice of their own volition”. The Commission has also clarified that *“the recast Section 370 ought not to be interpreted to permit law-enforcement agencies to harass sex workers who undertake activities of their own free will, and their clients”*, said Aarthi Pai, advocate for the National Network of Sex Workers, India.