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## RIGHT TO DIGNITY IN LIGHT OF THE STRUGGLE FOR SURVIVAL OF SEX WORKERS

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Saurav Kumar, LLB, Calcutta University

### ABSTRACT

The struggle basically deals with the plight of sex workers in the light of the pandemic situation prevailing in the country. They were the most affected after the migrant labourers as to the situation they have to face in their day to day lives. With the advancement in society and their engagement in various formal jobs we fail to recognise that sex workers are also human. Though they are into prostitution but denying them their basic rights seems to be wrong on so many levels. Though the formal and informal workers are provided basic rights we fail to grant these rights to sex workers. In recent judgement Supreme Court has come out in support of granting basic rights such as Food to these workers which has not been complied with by the respective State Governments. The consistent failure on the part of State Government to grant certain basic rights such as those guaranteed under Article 21 of the Indian Constitution shows the state of our country and how we have failed to grant them such rights. The Supreme Court coming out in favor to grant them aadhar card, ration card and various basic amenities is a commendable judgement which needs to be implemented for these people to be able to reintegrate with the society at large. At the end they are also humans like us who have been either pushed into human trafficking or are there due to various financial or other circumstances. “The fundamental rights are guaranteed to every citizen of the country irrespective of his or her vocation” as quoted by the apex court in this regard. Also in the course of the pandemic as a consequence of having no to less work for providing education to their children and their survival as a human being.

## **RIGHT TO DIGNITY IN LIGHT OF STRUGGLE OF SEX WORKERS**

With the advent of the culmination of society, there have been so many demarcations based on social, political, cultural, economic, etc. This demarcation has to lead to the emergence of a lot of issues as well. The Indian Constitution through its Article 21 grants the right to life and personal liberty which can be exercised in matters where one feels their right is being infringed. This same point applies to sex workers who earn their daily earnings in a manner that is considered unethical in terms of society rather would say termed as prostitution. An appeal was filed in the Supreme Court of India on 29th Sept 2020 by Durbar Mahila Samanwaya Committee<sup>1</sup>, which sought direction to the authorities to make available dry rations and also provide cash transfer to the sex workers struggling during the pandemic.

The principle issue in contention was that the people involved in sex work were struggling to obtain rations on the ground that they don't have a registered proof of identity or permanent address. Acting on the application, the court directed the state governments and Union territories to provide dry rations to sex workers identified by NACO (National Aids Control Organisation) with a prerequisite that no sex worker should be compelled to share their proof of identity. The court issued further directions while acting on an application of similar nature on 28th Oct 2020, where the state governments were asked not to use police authorities. The directions under the previous order were also reiterated to provide sufficient quantity of dry ration formulated under any central or state scheme. However, the counsel for the applicant submitted that the directions issued by the court are not being implemented and further stated that 'dry ration was distributed for a few months and thereafter stopped'.

The Supreme Court in its order dated 14th Dec 2021, noted how the state governments and union territories have failed assuage the situation of sex workers when the order for the same was given a decade ago. The court also noted that 'Right to dignity is a Fundamental Right that is guaranteed to every citizen of this country irrespective of his/her vocation.' The governments are bound by the duty to provide basic amenities to every citizen of the country. The court issued multiple directions to the state and union governments in this regard:

a) The State Governments/Union Territories must immediately commence the process of issuance of Voters Identity cards/ration cards to sex workers from the list maintained by the

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<sup>1</sup> Budhadev Karmaskar v State of West Bengal AIR 2010 SC

National Aids Control Organisation. NACO. Authorities can also take the assistance of State AIDS Control Societies.

b) Meanwhile, the authorities should continue distribution of dry ration to sex workers without insisting on verification of their ration cards. The identity of sex workers should also be kept confidential during the process and State and Union Governments were then directed to file status reports within a period of four weeks from the date of the order. Right to Dignity is protected by the Constitution of India under Article 21. Oxford dictionary defines dignity as ‘the fact of being given honor and respect by people’.

In the case of *Maneka Gandhi v. Union of India*<sup>2</sup>, the Supreme Court first derived this new dimension to Art. 21 where the right to life was held to be not merely a physical right but includes within its ambit the right to live with human dignity.

In the case of *Bandhua Mukti Morcha v. Union of India*<sup>3</sup> the court gave a broad meaning to Article 21 by incorporating the right to dignity ‘It is the fundamental right of everyone in this country to live with human dignity free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42’.

The Apex Court in the landmark case of *Naz Foundation V. Government of NCT and Others*<sup>4</sup> explained the relation between the constitution and dignity -“The Constitutional safeguard of human dignity expects us to recognize the worth and value of all people as an individual of our society”. The court observed that ‘this exercise is taken up because sex workers are also human beings and hence they are entitled to a life of dignity. The word "life" in Article 21 of the Constitution means a life of dignity and not just an animal life’.

The High Court of Delhi in the case of *Tara V. State* also emphasized the state of sex workers in India, commenting ‘the Central and the State Governments through Social Welfare Boards should prepare schemes for rehabilitation all over the country for physically and sexually abused women commonly known as prostitutes as they are also having issues which need to be addressed.

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<sup>2</sup> *Maneka Gandhi v Union Of India* AIR 1976 SC

<sup>3</sup> *Bandhua Mukti Morcha v Union of India* AIR 1983 SC

<sup>4</sup> *Naz Foundation v. Government of NCT and Others* AIR 2009 SC

Overall the State of Sex Workers needs to be improved for at the end of the day they are also humans and need to be treated like one and be informed of their rights for they have not entered voluntarily but due to certain compulsions.