

Bill No. 58 of 2016

THE SEX WORKERS (WELFARE AND REHABILITATION) BILL, 2016

By

DR. KIRIT PREMJBHAI SOLANKI, M.P.

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BILL

to provide for welfare and rehabilitation of sex workers and their families and for matters connected therewith or incidental thereto.

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution provides , *inter alia* that the State shall protect the weaker sections of the society;

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Sex Workers (Welfare and Rehabilitation) Act, 2016.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; 5

(b) "Board" means National Sex Workers Welfare Board constituted under section 3;

(c) "prescribed" means prescribed by the rules made under this Act; and

(d) "sex worker" means a female, male or a transgender over the age of eighteen years who receives money or goods in exchange for sexual services, either regularly or occasionally. 10

Constitution of
a National Sex
Workers
Welfare Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the National Sex Workers Welfare Board to exercise the powers conferred upon it by or under this Act. 15

(2) The Board shall consist of—

(i) Union Minister for Women and Child Development — Chairperson
ex-officio;

(ii) Joint Secretary, Department of Social Justice and Empowerment — Member
ex-officio; 20

(iii) Joint Secretary, Ministry of Housing and Urban Poverty Alleviation — Member
ex-officio; and

(iv) **five social workers belonging to organisation working for the welfare and rehabilitation of sex workers, or representing the sex workers to be nominated by the Central Government in such manner as may be prescribed.** 25

(3) The members, other than the *ex-officio* members, of the Board shall hold office for a period of three years.

(4) **The Central Government shall provide such number of officers and staff to the Board as may be required for its efficient functioning.**

(5) **The salary and allowances payable to, and other terms and conditions of the service of members, other than the *ex-officio* members, and the officers and staff of the Board shall be such as may be prescribed.** 30

(6) The Board shall meet at least once in every three months.

Powers of the
Board.

4. (1) The Board shall—

(a) monitor the implementation of this Act; 35

(b) enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action;

(c) advise the Central and the State Governments for effective implementation of the provisions of this Act; and 40

(d) take *suo motu* notice of matter relating to non-implementation of this Act.

(2) In the discharge of its powers under sub-section (1), the Board shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

5. (1) The Board shall undertake or cause to be undertaken, necessary measures, programmes and policies for the rehabilitation of the sex workers.

Functions of the Board.

(2) In particular and without prejudice to the generality of foregoing provision, the rehabilitation measures shall include—

5 (a) provision of a photo identity card to sex workers containing, *inter alia*, details of all dependent members;

(b) free monthly health checkup and free medical aid and medication for Human Immunodeficiency Virus Infection (HIV), Sexually Transmitted Infections (STIs) and other life-threatening diseases caused due to their profession;

10 (c) establishment of Integrated Counseling and testing Centres for HIV and anti-retroviral treatment;

(d) scholarship to the children of sex workers as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

15 (e) allotment of a residential plot and financial assistance for construction of a house thereon or a ready-built house, subject to eligibility and willingness of the sex worker and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority, as the case may be;

20 (f) training in a livelihood skill to sex-workers or at least one adult member of their family with payment of monthly stipend of not less than three thousand rupees during the period of such training;

(g) admission, without discrimination, into educational institutions recognized by the Central or a State Government;

25 (h) subsidy and concessional loans to sex-workers, or at least one adult member of their family, subject to eligibility and willingness, for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority, as the case may be; and

30 (i) such legal and other assistance to the sex workers as the Central Government or a State Government may notify in this behalf.

6. Whoever violates the provisions of this Act shall be punished with imprisonment for a term which may extend upto twelve months and with fine which may extend upto fifty thousand rupees.

Penalty.

35 7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

40 8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

9. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force.

Act not in derogation of other laws.

45 10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 5

STATEMENT OF OBJECTS AND REASONS

Sex workers face acute discrimination and abuse in India. It is not understood why sex workers are not recognised as right holders like all other persons. In most of the cases, working as a sex worker is not always a choice but it is often bound up with poverty, vulnerability and discrimination which may lead to violence against sex workers. Therefore, need is to address the structural and root causes including poverty and discrimination for persons engaged in sex work.

We should recognize the right of all sex workers to choose their work and to have them access to other employment opportunities.

The Bill, therefore, seeks to provide for counseling and financial support to sex workers along with other rehabilitative measures.

Hence this Bill.

NEW DELHI;
February 8, 2016.

KIRIT PREMJI BHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Sex Workers Welfare Board. It also provides for appointment of members, officers and staff to the Board. Clause 5 provides for issuance of photo identity cards to the sex workers; free monthly health checkups; scholarships to the children of sex workers and other rehabilitative measures. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore is likely to be incurred.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Dr. Kirit Premjibhai Solanki, M.P.)