

AS INTRODUCED IN LOK SABHA

Bill No. 316 of 2015

**THE SEX WORKERS (REHABILITATION AND
SOCIAL SECURITY) BILL, 2015**

By

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A

BILL

*to provide for the rehabilitation and social security of sex workers and
for matters connected therewith or incidental thereto.*

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

5 **1.** (1) This Act may be called the Sex Workers (Rehabilitation and Social Security) Act,
2015.

(2) It extends to the whole of India.

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

Short title,
extent and
commencement.

Definitions.

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

(a) 'abuse' includes verbal and physical abuse;

(b) 'adult literacy programmes' means programmes aimed at extending educational options, including literacy, basic education, skill development (vocational education) and equivalent, to those adults who have lost the opportunity and have crossed the age of formal education, but now feel a need for learning of any type; 5

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

(d) 'barrier' means any factor, including attitudinal, cultural, economic, institutional, political, religious, social or structural factor which hampers the full and effective participation of sex workers in society; 10

(e) 'Board' means the Central or the State Rehabilitation Board for Sex Workers constituted under section 6;

(f) 'child' means a person who has not completed the age of eighteen years;

(g) 'counselling centre' means a centre which facilitates an interpersonal, dynamic communication process between a client and a trained counsellor, who is bound by a code of ethics and practice, to resolve personal, social or psychological problems and difficulties and encourages the client to explore important personal issues, identify ways of coping with anxiety and stress and plan for the future; 15

(h) 'discrimination' means any distinction, exclusion or restriction on the basis of identity and expression which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination, including denial of reasonable accommodation; 20 25

(i) 'higher education' means a course of education which can be pursued after completing twelve years of school education;

(j) 'human rights' shall have the meaning assigned to it in clause (d) of section 2 of the Protection of Human Rights Act, 1993;

(k) 'institution' means an institution for the reception, care, protection, education, training, rehabilitation or any other service of sex workers; 30

(l) 'public place' means any place intended for use by, or accessible to, the public and includes any public conveyance;

(m) 'registered organization' means an association of sex workers, or a voluntary, non-Governmental or charitable organization or trust, society, non-profit company working for sex workers, duly registered by the Central or a State Government; 35

(n) 'rehabilitation' refers to a process aimed at enabling sex workers to attain and maintain maximum independence, full physical, sensory, intellectual, psychiatric, social and vocational ability, inclusion and participation in all aspects of life;

(o) 'sex worker' means a female, male, and transgender adult or young person, generally over the age of eighteen years, who receive money or goods in exchange for sexual services, either regularly or occasionally; 40

(p) 'services' means services provided by members of any profession or trade or by any Government, local authority or establishment and includes services relating to banking and finance, education, health, insurance, rehabilitation, entertainment, recreation and hospitality, transport or travel and telecommunications; and 45

(q) 'skill development' means systematic, deliberate and sustained training in order to carry out complex activities or job functions involving ideas, things and/or people in order to enable professional and personal growth.

CHAPTER II

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RIGHT TO EQUALITY AND NON-DISCRIMINATION

3. (1) The appropriate Government shall take all necessary steps to ensure that sex workers enjoy the right to equality, life with dignity and integrity equally with others. Right to Equality.

(2) The appropriate Government shall take measures to protect sex workers from being subjected to abuse, cruel, inhuman or degrading treatment.

10 **4.** The sex-workers shall have the right to live in the community without any discrimination and given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living. Right to non-discrimination.

5. (1) The Central Government shall constitute a Board to be known as the Central Rehabilitation Board for sex workers to exercise the powers conferred upon, and to perform the functions assigned to Central Board under this chapter. Constitution of Rehabilitation Boards.

(2) Every State Government shall constitute a Board to be known as the State Rehabilitation Board for sex workers to exercise the powers conferred upon, and to perform the functions assigned to State Board under this chapter.

(3) The Board shall consist of a Chairperson and six other Members.

20 (4) The Chairperson of the Board shall be an eminent person with distinguished record of service in the field of sex worker rights; and

(5) The Board shall consist of following Members—

(i) a person who is or has been a Judge of a High Court for atleast five years, or has been, a District Judge for at least five years;

25 (ii) a person who is or has been Joint Secretary to the Government of India under the Central Staffing Scheme or any other post under the Central Government carrying a scale of pay which is not less than the Joint Secretary to the Government of India, for atleast three years and has adequate knowledge and experience in dealing with problems and implementation relating to rehabilitation and social security schemes of the Government;

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(iii) a social worker who has a distinguished record of service in the field of rehabilitation, advocacy and law relating to the rights of sex-workers;

(iv) two sex workers who are popularly acknowledged as the representatives of sex workers; and

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(v) a person to represent the Health and Family Welfare department of the appropriate Government.

(6) The Chairperson and the members of the State Board shall be appointed by the State Government in such manner as may be prescribed.

40 (7) The headquarters of the Board shall be at such place as the appropriate Government, may, by notification, specify.

6. (1) The Central or the State Board shall undertake or cause to be undertaken, services and programmes of rehabilitation, particularly in the areas of health, education, financial assistance and employment of sex workers. Rehabilitation.

45 (2) The Board, while formulating rehabilitation policies, shall consult the registered organizations working for the cause of sex workers.

(3) The Board shall provide provisions for rehabilitation for ailing or aged sex workers, who are unable to support themselves through earnings from commercial sex.

Functions of the Board.

7. The Board shall—

(a) inquire *suo moto* or on a complaint by affected sex worker or any person or organization on behalf of a sex worker, with respect to deprivation of their safeguards and rights of sex workers; 5

(b) identify sex workers who have been newly recruited into brothels;

(c) interacting with the sex workers who wants to leave sex work and deliberate on rehabilitation options; and

(d) implement the rehabilitation plan for sex workers in coordination with the district agencies. 10

Resignation and Removal of Chairpersons and Members.

8. (1) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India or Governor of the State, as the case may be, resign his office.

(2) The Chairperson or any Member may be removed from his office by order of the President of India or the Governor of the State, as the case may be, on the ground of proven misbehaviour or incapacity after holding an inquiry held in accordance with such procedure as may be prescribed by the Central Government. 15

(3) The Chairperson or any Member, shall also be removed from office, if he—

(a) is adjudged an insolvent; or 20

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is convicted and sentenced to imprisonment for an offence which in the opinion of the appropriate Government involves moral turpitude.

Term of office.

9. The Chairperson and Members of the Board shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of three years. 25

Member to act as Chairperson in certain circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of the death, resignation or otherwise, the appropriate Government may, by notification authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy. 30

(2) If the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, one of the Member as the appropriate Government may, by notification, authorised in his behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties. 35

Salary and allowances of Chairperson and Members.

11. (1) The salaries and allowances payable to and other terms and conditions of service of the Chairperson and the Members shall be such as may be prescribed by the appropriate Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment. 40

(2) Subject to such rules as may be made by the appropriate Government in this behalf, the Rehabilitation Board may appoint such other administrative and technical officers and staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed, shall be such as may be prescribed by the State Government. 45

12. (1) The Board shall submit an annual report to the appropriate Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

Annual Report
of Boards.

(2) The Central Government shall cause the annual and special reports of the Board to be laid before each House of the Parliament along with a memorandum of action taken or proposed to be taken on the recommendations by the Central Government.

(3) The State Government shall cause the annual and special reports of the Board to be laid before each House of the State Legislature, where it consists of two Houses, or where such a Legislature consist one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations by the State Government.

CHAPTER IV

QUALITY HEALTHCARE

13. The Board shall take necessary measures to ensure that quality healthcare is provided to the sex workers and their children by ensuring—

Healthcare.

(a) separate clinics which offer free medical aid/medication for Human Immunodeficiency Virus infection (HIV), Sexually Transmitted Infections (STIs) and other life-threatening diseases caused because of their profession;

(b) Integrated Counselling and testing Centres for HIV and anti-retroviral treatment; and

(c) Barrier-free access in the hospitals and other healthcare institutions and centres.

14. To fulfil its obligations under this Chapter, the Board shall make schemes and programmes with participation and involvement of sex workers and registered organizations that *inter-alia* makes provisions for coverage of medical expenses and therapeutic intervention by a comprehensive health insurance scheme.

Comprehensive
Health
Insurance
scheme.

CHAPTER V

ACCESS TO JUSTICE

15. (1) The Board shall ensure that sex workers are able to exercise the right to access at any court, tribunal, authority, or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of their profession.

Access to
Justice.

(2) The Board shall provide free social and legal aid to sex-workers in distress.

CHAPTER VI

COMPREHENSIVE EDUCATION PROGRAMME

16. (1) The Board shall ensure that all educational institutions funded or recognized by them, provide quality education, and *inter-alia*—

Education for
sex workers.

(a) admit sex-workers without discrimination and provide them education as also opportunities for sports, recreation and leisure activities on an equal basis with others;

(b) provide necessary support in environments that maximize academic and social development, consistent with the goal of full inclusion;

(c) monitor participation, progress in terms of attainment levels and completion of education, in respect of every sex-worker.

(2) The appropriate Government, in consultation with the Board and local authorities shall ensure participation of sex workers in adult education and continuing education programmes on an equal basis with others.

Education for children of sex workers.

17. (1) The Board shall ensure a comprehensive educational programme for the children of sex-workers who face gross discrimination and abuse alike to their mothers.

(2) The educational programme shall cover children of different ages and learning needs through the following components:

- (i) pre-school care;** 5
- (ii) academic support for junior school going children;**
- (iii) educational centres for school dropouts;**
- (iv) special coaching classes for senior school children;**
- (v) vocational training for teenage children; and**
- (vi) higher education for children completing senior secondary education.** 10

CHAPTER VII

SKILL DEVELOPMENT AND VOCATIONAL TRAINING

Skill development and vocational training.

18. The Board shall formulate schemes and programmes, especially for vocational training and self-employment of sex workers, at concessional rates to facilitate and support employment of sex workers. 15

CHAPTER VIII

FINANCIAL SECURITY

Financial Security to sex workers.

19. The Board shall ensure financial security of sex workers as well as their children—

- (a) by introducing micro-credit programmes to enable sex workers to save in daily collection, monthly income or fixed deposit schemes; and** 20
- (b) by making available loans to sex workers at low interest rates with easy repayment options.**

CHAPTER IX

OFFENCES AND PENALTIES

Offences and penalties.

20. (1) Whoever exploits the sex workers for commercial gain shall be punished with imprisonment which may extend to three years and fine which may extend to twenty-five thousand rupees and in case of subsequent offence of exploitation with further fine which may extend to rupees one thousand for each day of continued exploitation after the date of original order imposing punishment or fine. 30

(2) Whoever voluntarily or knowingly commits or abets the offender by words, either spoken or written, action, or by signs or by visible representations or otherwise, shall be punished with imprisonment for a term which may extend to one year and with fine.

CHAPTER X

MISCELLANEOUS

Power to make rules.

21. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 35

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such legislature consists of one House, before that House. 40

(3) Every rule made by the Central Government 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 of
- 5 both the Houses agree that the rule should not be made, the rules 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.

STATEMENT OF OBJECTS AND REASONS

The sex workers in India face a lot of abuse on a daily basis. Though there is the Immoral Traffic (Prevention) Act, 1956 to combat trafficking and sexual exploitation for commercial purposes, this law only lays down offences for commercial prostitution and does not mention any welfare measures for the prostitutes and their children. In India, prostitution is not an offence, rather practicing it in a brothel or within 200 meters of any public place is illegal. In such a scenario, it is important to formulate a new law which provides for the welfare of the sex-workers and their families in the aspects of healthcare, education, shelter and skill training.

Sex-workers wish to be integrated in society and hold rights and responsibilities, like any other citizen. This requires efforts to assimilate rather than alienate sex-workers from the wider community. Detention in corrective institutions or protective homes worsens estrangement of sex-workers, erodes social ties and weakens the realization of genuine rehabilitation.

This view has been endorsed by the Supreme Court in the case of *Budhadev Karmaskar Vs. Government of West Bengal*. In this case, the court recognized the need to ensure that sex-workers are able to live a life of dignity *under Article 21 of the Constitution of India since they are also human beings and their problems also need to be addressed*. The Court further noted *a sex-worker is compelled to indulge in prostitution not for pleasure but because of abject poverty. If they are granted opportunity to avail some technical or vocational training, they would be able to earn their livelihood by such vocational training and skills instead of by selling their bodies*.

The Court set up a panel to discuss "conditions conducive for sex-workers to live with dignity in accordance with the provisions of article 21 of the Constitution". It also suggested that free legal services be provided to sex-workers through the State Legal Services Authorities. Thus, this Bill proposes to implement the aforesaid order of the honourable Supreme Court.

The salient features of the Sex Workers (Rehabilitation and Social Security) Bill, 2015, *inter-alia* are—

- The sex-workers shall not be discriminated against in any field.
- Quality healthcare shall be provided to the sex-workers and their children in form of free medical aid/medication for HIV and other life threatening diseases which are caused because of the trade.
- Free social and legal aid shall be provided to sex-workers in distress.
- The State shall set up institutes to facilitate adult literacy programmes.
- A comprehensive educational programme is proposed to be set up for the children of sex-workers who face gross discrimination and abuse alike to their parent(s).
- There shall be provisions for rehabilitation for ailing and/or aged sex-workers, who are unable to support themselves through earnings from commercial sex. This age bracket of sex-workers desperately seek income and social security, as many of them have no family or savings to fall back on in their old age.
- The sex-workers shall be given training and vocational education to enhance their skills and make them employable.

- The Government shall provide financial security to the sex workers by initiating special loan programmes for them.

Hence this Bill.

NEW DELHI;
November 16, 2015.

POONAM MAHAJAN

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of the Central and State Boards for Rehabilitation of sex workers. Clause 6 provides that Board shall take certain rehabilitation measures for sex workers. Clause 7 provides that the Board shall take appropriate measures for identification of newly joined in profession of sex workers, implementation of rehabilitation plans in co-ordination of district agencies. Clause 11 provides for salary and allowances of the Chairperson and Members of the Board and officers and staff of the Board. Clause 13 provides for providing of quality healthcare to sex workers and their children. Clause 15 provides that Board shall take steps to free social and legal aid to sex workers in distress. Clause 16 provides for educational and other facilities for sex workers. Clause 17 provides for educational facilities for children of sex workers. Clause 18 provides for vocational training to sex workers. Clause 19 provides for extending of financial security to sex workers and their children.

The expenditure relating to States Boards constituted in the States shall be borne out of the Consolidated Fund of the respective States. However, the expenditure in respect of Union Territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, would involve expenditure of about rupees Five Hundred Crore per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees One Hundred Crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of Legislative power is, therefore, of a normal character.

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(Shrimati Poonam Mahajan, M.P.)