

NEW DELHI

Of a pledge and a people



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Indian sex workers' organisations welcome the US Supreme Court's overruling of the "anti-prostitution pledge"

It is a judgment that comes from afar – the United States Supreme Court to be precise. But its ramifications were felt by women in Sangli, Maharashtra, because it reiterates their right to decide how to fight for their lives and their dignity. The Prostitution Pledge, a US policy on sex work that defined US funding priorities to the HIV/AIDS epidemic for 11 years; was recently declared unconstitutional by the US Supreme Court.

In 2003, as part of the US Emergency response to HIV/AIDS – Emergency Plan for AIDS Relief (PEPFAR), tuberculosis and malaria, the US Government under George Bush, led what became known as the

Leadership Act 2003 (Leadership against HIV/AIDS, Tuberculosis and Malaria Act of 2003). The US Congress also sanctioned 15 billion dollars over a five year period as funding to non governmental organisations to implement HIV/AIDS responses globally. But the government aid came with two crucial riders; one, funds would not be used to “advocate for the legalisation or practice of prostitution” and two, organisations receiving funds would have a policy, opposing prostitution. Eligible organisations were asked to explicitly comply with this “policy requirement” in their award documents.

Arrival at a critical juncture

Ironically, the pledge came at a time when there was emerging recognition from UN agencies of the role of sex worker collectives in peer led HIV prevention. It also came at a crucial juncture in the global response to HIV, when resources for organisations working with marginal populations were limited. In India, the National AIDS Control Program under the second phase had allocated around \$300 million to fund a five year program (1999 to 2006).

By comparison, USA had allocated approximately \$40 million for Maharashtra alone in 2004-05 through AVERT Society, a joint project of the Government of India, the National AIDS Control Organization (NACO), and the US Agency for International Development (USAID).

Unfortunately, the US Government’s policy not only conflated sex work and trafficking; but also forced organisations working with adult consenting sex workers to pledge against something that they believed in – rights of sex workers to self determination and a life of dignity.

But what does this US Government policy got to do with sex workers in Maharashtra, you may well ask.

Well, since the early 1990s, effective HIV prevention among sex workers and other affected by HIV in this sugarcane rich belt of Western Maharashtra has been spearheaded by SANGRAM. In 1996, the sex workers rights movement, Veshya Anyay Mukti Parishad or VAMP was set up by a group of women in sex work with SANGRAM support. Today it has over 5000 members from Sangli, Satara and surrounding districts of Maharashtra.

"Our work, recognized by UNAIDS as a best practice in reducing HIV/AIDS, began with the simple yet powerful understanding that women in sex work are not deviants who spread HIV – but are human beings who can be transformed into agents of change to protect themselves and their clients from HIV," says Meena Seshu, general secretary of SANGRAM.

SANGRAM received funds from the Avert Society to implement a rural HIV prevention program in 2003. With the passage of the Leadership Act, SANGRAM led by the sex worker collective VAMP protested the pledge provision as coercive and a violation of the rights of sex workers.

Refusal to sign pledge

“In one voice, VAMP refused to sign the pledge, which directly contradicted what we knew -- that adult sex workers, empowered by collective solidarity had the right to choose their work with dignity and to find their own solutions to HIV and other challenges. SANGRAM was hounded and labelled as a trafficking organization in a US Senate report, a scurrilous and unfounded charge,” says Meenakshi Kamble of VAMP.

SANGRAM preferred to return all the USAID funds rather than sign the anti-prostitution pledge, about Rs 11 lakhs or \$20,000. Recalls Kamlabai Pani, VAMP, “We decided to contribute time, money and whatever else we could to ensure that the HIV prevention work continued without funding. We were not traffickers; simply a sex workers’ collective wanting recognition of our rights. Our fight was about that recognition and our refusal to be victimized once again.” It was a move born of courage and conviction in sex workers’ rights.

No room for plurality

Most organisations and collectives of sex workers, oppose coerced sex work and trafficking for sex slavery and employ different strategies to address those issues. The pledge, however, doesn’t allow for plurality, epitomises “raid, rescue, rehabilitation” attitude and denounces any approach that seeks to work with sex workers to find solutions and gain their rights. SANGRAM and VAMP in Sangli, mirror the struggle of collectives who chose to fight the pledge and repose faith in their own collective approaches to empowering people in sex work and fighting forced prostitution and trafficking.

On June 22 this year, the apex court in the US acknowledged that the impugned provisions of the Leadership Act 2003, forced organisations to “pledge allegiance to the Government’s policy of eradicating prostitution” thereby violating the constitutionally guaranteed right to free speech. This landmark decision frees US-based organisations to use US funding for essential HIV prevention and care without being bound to an antiquated and unjust position on sex work.

“Break policy stranglehold”

“Life-saving work that all experts see as crucial to HIV prevention and care has been blocked by the moral judgments behind this policy, and it is high time that the stranglehold of this scandalous policy is broken,” says Meena Seshu.

For Raju Naik from Mitra, a collective of children of sex workers, the decision is a vindication of SANGRAM and VAMP’s struggle, “the United States Supreme Court has essentially rapped the US Government for assuming it could make organizations from all over the world comply to its policies, opinions and politics merely because it funds them.”

The US position on sex work had become increasingly untenable as authorities such as World Health Organisation and UNAIDS have adopted policies upholding the rights of people in sex work. The Global Commission on HIV and Law, a panel of international experts, stated in 2012 that the anti-prostitution pledge placed grantees in an “impossible position - of being denied funds if they do not agree, and if they sign they are barred from supporting sex workers in taking control of their own lives”. The Global Commission had called for the repeal of the pledge.

The Court’s decision, released US-based organisations from the unjust requirement of the pledge, but the provision will continue to apply to groups based outside the US – which poses a continuing advocacy challenge for those who care about the rights of sex workers.

(The writer is a lawyer and currently working as the Director of the Centre for Advocacy on Stigma and Marginalisation (CASAM).)