SC Guidelines on Sex Work

Mains: *GS I – Social Issues*

Why in News?

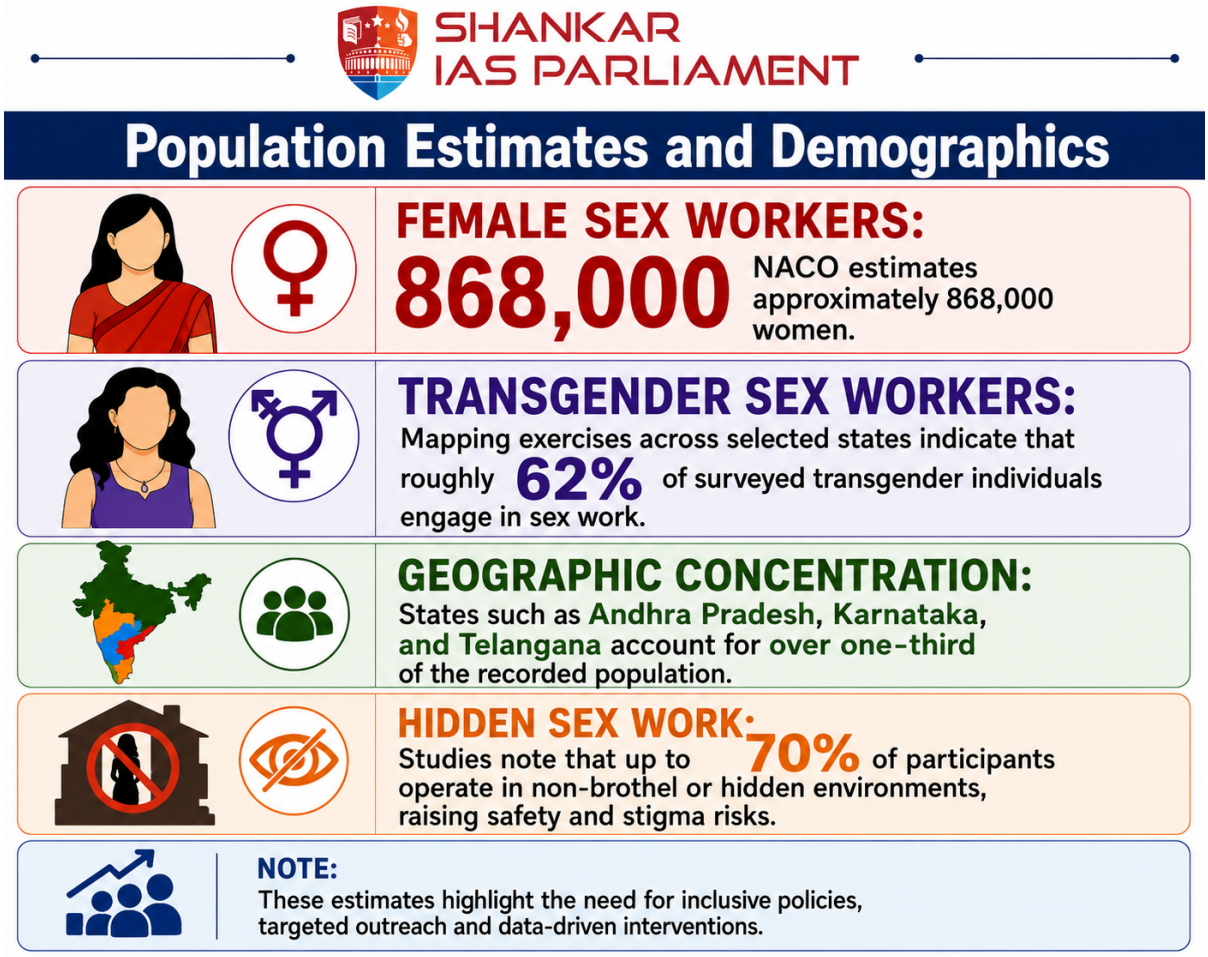
Recently, the Supreme Court, delivered a judgment in Prajwala v. Union of India, addressing trafficking for commercial sexual exploitation (CSE) and victim rehabilitation.

Who are Sex Workers?

- **Sex Workers –** They are adult who receives money or goods in exchange for consensual sexual services, erotic performances, or adult entertainment.

- **India's demographic share –** National AIDS Control Organisation (NACO) identified approximately 800,000 sex workers through its tracking programs.

- Non-governmental organizations and UN-affiliated groups estimate the total population to be between 2 million and 3 million individuals.



What are the key challenges faced by sex workers?

- **Forced Rescue –** The Supreme Court observed that anti-trafficking raids often result in forced rescue, placement in protective homes, and indefinite confinement, which undermines genuine rehabilitation.

- **Criminalisation and stigma –** The Supreme Court observed that sex workers experience moral stigma, police harassment, social exclusion, and discrimination, all of which impede their access to justice and public institutions.

- **Separation from Children –** SC noted that rescue operations often cause traumatic separation of women from their children, causing insecurity and distress.

- **Institutional Accountability –** The Supreme Court cautioned that protective homes may become spaces of control if residents are

    - Denied legal aid,

    - Subjected to excessive restrictions,

    - Have their preferences disregarded, or experience inadequate monitoring.

- **Economic Vulnerability –** SC recognized that poverty, few job opportunities, and limited social support reduce choices, increasing sex workers' dependence and insecurity.

- **Caste Discrimination –** The SC noted that caste and socioeconomic marginalisation push people into sex work.

- These factors also shape how police, courts, and bureaucracy treat them.

What are the key guidelines issued by Supreme Court?

- **Voluntary vs. Trafficking –** The Supreme Court distinguished voluntary adult sex work from trafficking, recognising that consensual sex work is not exploitative and affirms adult agency.

- **Consent & Autonomy –** SC held that rehabilitation must be guided by consent and individual autonomy, affirming sex workers' agency.

- **Constitutional Rights –** The SC affirmed that Articles 21 and 23 apply to sex workers, ensuring their rights to life, liberty, and protection from forced labour remain intact despite social disapproval.

- **No Forcible Rescue –** SC ruled that voluntary adult sex workers cannot be subjected to forced rescue or detention, and any intervention must first establish consent.

- **Victim Protection Plan –** SC issued a detailed plan under Articles 32 & 142, covering all stages includes pre-rescue, rescue, post-rescue, rehabilitation, and reintegration.

- SC shifted from paternalistic rescue-rehabilitation to a rights-based, dignity, autonomy, and consent framework, recognising sex workers as citizens with agency.

What are the four stages covered under Supreme Court guidelines?

- **Pre-Rescue –** Ensure Anti-Human Trafficking Units (AHTUs) are adequately trained, employ victim-sensitive methods, avoid mass raids, include female personnel, and maintain sensitivity to HIV-related issues.

- **Rescue –** Treat victims as individuals in need of assistance rather than as criminals, ensure their separation from traffickers, recover identification documents, provide protection for children, and enforce penalties for police misconduct.

- **Post-Rescue –** Provide humane living conditions, ensure access to sanitation facilities, offer translation services, guarantee legal aid, maintain confidentiality, and facilitate early transfer to protective homes.

- **Rehabilitation and Reintegration –** Recognize rehabilitation as a constitutional right, ensure all processes are guided by informed consent, prohibit forced rehabilitation, and avoid mechanical placement in homes or families.

What are the limitation in SC guidelines?

- **Gap Between Rights and Implementation –** Court recognition of rights does not necessarily lead to changes in police or bureaucratic behavior.

- **Risk of Institutional Bias –** Police, magistrates, and shelter authorities may continue to view sex workers from a moralistic or paternalistic perspective.

- **Anti-Trafficking–Rescue Complex –** A key concern is that institutions involved in anti-trafficking operations may prioritize rescue and confinement instead of autonomy and rehabilitation.

- **Marginalised Communities –** Caste, class, and gender inequalities can affect how effectively individuals exercise their legally recognized rights.

- **Participation Deficit –** Implementation should be developed in consultation with sex workers, rather than without their involvement.

- Affected communities and their collectives should play a meaningful role in developing guidelines, monitoring shelters, and evaluating police practices.

What lies ahead?

- **Inclusion of Collectives –** It prioritize the inclusion of sex worker collectives in policymaking and monitoring processes.

- **Strengthen AHTUs –** It enhances Anti-Human Trafficking Units (AHTUs) through specialized training, increased sensitivity, and strengthened accountability.

- **Operationalize Consent –** It ensures that consent is operationalized as informed, freely given, voluntary, and continuous.

- **Reform Shelter Homes –** By instituting regular monitoring, providing legal aid, establishing grievance redressal mechanisms, and upholding the dignity of residents.

- **Address Structural Causes –** By improving access to livelihoods, housing, education, healthcare, and social security.

- **NGO Accountability –** It promotes through transparent funding practices, regular audits, and accessible grievance mechanisms.

- **Leverage Welfare Schemes –** Sex workers should be granted access to existing social programmes as rights-holders rather than as recipients of charity.

Reference

[The Hindu | Supreme Court's Judgment on Sex Work]

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