



US Supreme Court strikes down Anti-Prostitution pledge

Vindication for VAMP / SANGRAM

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In a victory for sex worker rights across the world, the United States Supreme Court on 20th June 2013, struck down as unconstitutional the legal requirement that organisations receiving US assistance for HIV programs must have an explicit policy opposing 'prostitution'. Popularly known as the anti-prostitution pledge, the provision effectively denied financial support to sex work programming in HIV despite widespread scientific and UN consensus that such programming is essential for a successful HIV response.

The Supreme Court acknowledged that this provision in the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Leadership Act) 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 thus 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.

"Life-saving work that all experts see as crucial to HIV prevention and care has been blocked by the moral judgments behind this law, and it is high time that the stranglehold of this scandalous policy is broken," said Meena Seshu of SANGRAM in Sangli, Maharashtra.

The award-winning organisation SANGRAM and VAMP, the collective of sex workers associated with it, were among the few organisations in the world to refuse US assistance following the passage of the Leadership Act. "We struggled to find ways to continue our work with people vulnerable to HIV rather than join in this pledge that denied our rights and everything we value," said Shabana Khazi, general secretary of VAMP. "Now the US Supreme Court finally affirms our rights and our dignity."

In May 2003, US president George W. Bush signed the Leadership Act with its prohibition on use of US-funded aid programs "to promote or advocate the legalization or practice of prostitution or sex trafficking." It required that US-supported HIV programs have policies "explicitly opposing prostitution and sex trafficking".

This policy erroneously conflating sex work and human trafficking had disastrous implications for sex worker collectives, which have been recognized by the United Nations and many expert groups as essential for ensuring HIV prevention and care for sex workers and their clients. The experience of SANGRAM and VAMP illustrates the damage done.

SANGRAM has done effective HIV prevention among sex workers and other affected by HIV since the early 1990's in the western state of Maharashtra. It received funds from the Avert Society – a 2002 joint project of the Government of India, the National AIDS Control Organization (NACO), and the US Agency for International Development (USAID). With the 2003 passage of the Leadership Act, SANGRAM's team led by the sex worker collective VAMP protested the pledge provision as coercive and a violation of the rights of sex workers.

"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.

Because of this principled decision, SANGRAM staff and the members of VAMP were hounded and labeled as a "trafficking organization" in a US Senate report, a scurrilous and unfounded charge", said Meenakshi Kamble of VAMP.

SANGRAM preferred to return all the USAID funds rather than sign the anti-prostitution pledge, about 11 lakhs i.e. \$20000, a move that came at a time when the funds needed to fight HIV amongst vulnerable populations was extremely limited and hard to come by.

"Sex workers decided to contribute time, money and whatever else we could to ensure that the HIV prevention work continued without funding. We were not traffickers, but a collective of sex workers wanting society to recognise our rights. Our fight was about that recognition and our refusal to be victimized once again", said Kamalabai Pani of VAMP. It was a move born of courage and conviction in the belief of sex worker rights. Today 11 years later, that struggle has been vindicated.

"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", said Raju Naik from Mitra, the collective of children of sex workers.

The US position on sex work had become increasingly untenable as authorities such as World Health Organisation and UNAIDS 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 called for the repeal of the pledge and all other such punitive conditionality in official development assistance.

The Court's decision, released US-based organizations from the unjust requirement of the pledge, but the provision will still apply to groups based outside the US – a continuing challenge for advocacy for those who care about the rights of sex workers. Promoting the health and human rights of sex workers is NOT promoting trafficking, and SANGRAM/VAMP in solidarity with human rights advocates worldwide will continue to spread this message.

In solidarity,

Shabana Khazi, Kamalabai Pani, Bhimawa Golar, Durga Pujari, Chanda Wajane,
Meenakshi Kamble, Kiran Deshmukh, Suvarna Ingalgave, Shalan Bagade.

Veshya Anyay Mukti Parishad [VAMP]