
Human Rights of Sex Workers with Special Reference to Amnesty International Policy

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Abstract: *Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. (United Nations Human Rights, 2020). Sex workers' rights encompass a variety of aims being pursued globally by individuals and organizations that specifically involve the human health, and labour of sex workers and their clients. This study draws upon the experience of sex workers in the field of "sex work as a job" and their understanding about Human Rights with reference to Amnesty International Policy. This case study tries to understand multiple and interjecting forms of discrimination and exclusion faced by sex workers, their views about "sex work" as job, their understanding of their rights to leave the job when they choose to, their perception on the need of decriminalizing sex work and the accessibility of sex workers with respect to judicial system and health care. The study was conducted in Trivandrum District, Kerala. The study reveals that sex workers are extremely harassed in the society and policies relating to human rights of sex workers exist but the implementation and knowledge about it is low.*

Key Words: *Amnesty International, Human Rights, Sex Work, Discrimination, Decriminalization.*

1. Introduction

It is difficult to get exact number of commercial sex workers, as sex work is mostly hidden and the population is transient, with people moving in and out of sex work constantly. It was estimated that there were between 40 and 42 million prostitutes in the world. (Lubin, 2012). A comprehensive study on 'Girls and Women in Prostitution', conducted in 2004, had estimated that there were 2.8 million prostitutes in India, of which 36% are children. (Press Information Bureau, 2014). Nearly 7,000 sex workers are working

in various parts of Kerala, and now most of them are part of the Kerala Network of Sex Workers Union. (Vellaram, 2020). National Aids Control Organisation (NACO) estimated that there are 6,96,484 sex workers in India. (National AIDS Control Organization, 2014-15). The goals of sex work movements are diverse, but generally aim to decriminalize and destigmatize sex work, and ensure fair treatment before legal and cultural forces on a local and international level for all persons in the sex industry.

2. Amnesty International Policy

Amnesty International (Working to Protect Human Rights) is a non-governmental organisation focused on human rights with over 7 million members and supporters around the world. The objective of the organisation is ‘to conduct research and generate action to prevent and end grave abuses of human rights, and to demand justice for those whose rights have been violated.’ Amnesty draws attention to human rights’ abuses and campaigns for compliance with international laws and standards. It works to mobilise public opinion to put pressure on governments that let abuse take place. (Amnesty International, 2020). The policy implemented by Amnesty International has been developed in recognition of the high rates of human rights’ abuses experienced globally by individuals who engage in sex work. (Amnesty, 2016)

2.1 Discrimination and Exclusion Faced by Sex Workers

Several studies prove that prostitutes are at a heightened risk of violence, escalating to lethal violence. Joint United Nations Programme on HIV and AIDS (2016) reveals that people involved in sex work face discrimination and violence owing to their criminalised status and the continued conflation of sex work with trafficking. Sex workers experience debilitating stigma and discrimination that erodes their ability to protect their health and well-being. They prefer not to reveal their occupation when seeking care at government or private hospitals due to their experience of being stigmatised and discriminated against. (Universal Periodic Review, 2016).

United Nations Programme on HIV and AIDS Guidance Note (2012) reveals that sex work is highly stigmatized in many societies; most sex workers face some degree of stigma and discrimination. People engaged in sex work face rejection from their own communities, mistreatment by clients and service providers, sex workers often risk rejection at home. Upon returning to their

communities, former sex workers may be banished, victimized by sexual or physical violence. Those who leave their communities at a young age to engage in sex work experience difficulty reintegrating in their families and former friendship networks. (Joint United Nations Programme on HIV and AIDS, 2012)

In the study conducted by Network of Sex Work Projects (2015) sex workers living with HIV are constantly exposed to negative stereotypes about themselves. They may come to believe that these stereotypes are true, or that they ‘deserve’ to be HIV positive. This can have a negative effect on their mental health and wellbeing. Finally, stigma operates within society, resulting in discrimination from individuals and within institutions, policy and law. Social exclusion increases the vulnerability of sex workers living with HIV to violence, drug use, negative health outcomes, poverty and mental health issues. (NSWP, 2015). World Health Organisation (WHO) states various forms of violence faced by sex workers. Physical violence, being subjected to physical force which can potentially cause death, injury or harm that includes having an object thrown at one, being slapped, pushed, shoved, and dragged and more (WHO, 2013).

2.2 Job Satisfaction

Job satisfaction and its correlates among 247 female sex workers working as private service providers, in licensed brothels, and in illegal sectors of the industry (mainly street-based workers) in Australia reported that most sex workers have positive job satisfaction. Satisfaction was higher in women working legally and was comparable with women from the general population. Multivariate analyses revealed that job satisfaction was significantly linked to women’s reasons for initially entering the industry. (JE Bilardi, 2016). Steve Bosch (2014) identified most sex workers in Canada are comfortable in their work (Bosch, 2014).

According to International Labour Organization (ILO) Sex work is first and foremost an income-generating activity. The ILO estimates that sex workers support between five and eight other people with their earnings. Sex workers also contribute to the economy. With surveys in four countries, ILO found that the sex industry provides between 2 and 14 percent of gross domestic product. In Thailand, for example, the sex industry generated about US\$6.4 billion in 2015, a figure which accounted for 10 percent of Thailand’s GDP. Thai sex workers send an annual average of US\$300 million to family

members who reside in more rural areas of Thailand. Additionally, while 65 percent of sex industry workers are sex workers, the industry also generates employment for auxiliary cleaning, security and driving services. (Lim, 1998)

2.3 Rights of Sex Workers to Leave the Job

In a study conducted by New Zealand Prostitutes' Collective (2004) sex work should be treated as work, with the same protections offered to other employees. They should be entitled to the same protection by the authorities like police, judiciary etc. The only exception should be a law that prevents discrimination based on occupation (A Guide to Occupational Health and Safety in the New Zealand Sex Industry, 2004)

2.4 Decriminalization of Sex Work

Lutnick A, Cohan D (2009) expressed support for certain tenets of a decriminalized model. Most of them agree courts should get rid of laws that make sex work illegal. A large portion felt that they should be allowed to trade sex in strip clubs and massage parlours (68%), on the streets (77%), and in escort agencies and brothels (87%). The majority of the women, 82%, preferred street-based sex work to happen in commercial areas and red light districts. Ninety-one percent wanted laws that protected the rights of sex workers. (Lutnick Alexandra, Cohan Deborah, 2009). Legal recognition of sex workers and their occupation maximizes their protection, dignity, and equality. Human Rights Watch supports full decriminalization because research shows that full decriminalization is a more effective approach to protect sex workers' rights. Sex workers themselves also usually want full decriminalization. (Human Rights Watch, 2019)

Open Society Foundation (2015) provides ten reasons why decriminalization of sex works is the best policy for promoting the health and human rights of sex workers, their families, and communities. The ten reasons are: decriminalization respects human rights and dignity; helps in guarding against violence and abuses; challenges police abuse and violence; improves access to justice; challenges the consequences of having a criminal record; improves access to health services; reduces risk of HIV and sexually transmitted infections; promotes safe working conditions; allows for effective responses to trafficking and challenges state control over bodies and sexuality. (Open Society Foundation, 2015).

2.5 Accessibility to Judicial System and Health Care

United Nations Office on Drugs and Crime (2003), offered sex workers direct legal assistance, education about their legal rights, and training along with peer groups. It also facilitated collaboration between sex workers and police and other members of the criminal justice system to understand and give awareness about legal system. In the first year of its operation, the project took on 76 legal cases involving sex workers, the women voiced the abuses faced by them by registering cases against the violence they faced. (UNODC, 2003). The laws that criminalize sex work cause sex workers to feel unsafe reporting crimes including violent crimes and other abuses because they fear prosecution, police surveillance, stigma, and discrimination. Decriminalization removes these kinds of barriers. After New Zealand reformed its laws in 2003, many sex workers reported that they could turn to the police and courts for help without fear of prosecution for the first time in their lives. (Open Society Foundation, 2015). According to Immoral Traffic Prevention Act (ITPA) of the constitution of India, under article 23, prohibits trafficking in every form including commercial sexual exploitation of women and girls. The main statute dealing with sex work in India, does not criminalize prostitution or prostitutes, but mostly punishes acts by third parties facilitating prostitution like brothel keeping, living off earnings and procuring, even where sex work is not coerced. (Sonwani, 2013). There are fundamental legal implications to recognise sex work as work. If sex work is work, then it is not a crime, making criminalisation an inappropriate legal model. If sex work is work, criminal law is not the appropriate tool to regulate the sector. Sex workers are protected by the same labour laws that protect the rights of all workers in the country, and other laws that protect the rights of all citizens. (NSWP, 2017)

Sex workers experience debilitating stigma and discrimination that erodes their ability to protect their health and well-being. They prefer not to reveal their occupation when seeking care at government or private hospitals due to their experience of being stigmatised and discriminated against. Female sex workers are humiliated and criticised, made to wait for inordinately long periods of time, not examined properly, forced to undergo HIV tests, overcharged for services at private hospitals, denied medical services delivery care; and their confidentiality violated. The vulnerable position of sex workers is further exacerbated in medical facilities. (Universal Periodic Review, 2016)

3. Methodology

The qualitative study included aspects like multiple and intersecting forms of discrimination, sex workers view about the job, and view on decriminalizing sex work, access to judicial and healthcare system. Case study method was used with the help of semi structured interview guide as tool. The research was carried out in Medical College area of Thiruvananthapuram District, Kerala, an area where sex workers are seen prominently working. Data were collected from 3 cases that were selected with the help of a Voluntary Organisation working with sex workers. Thematic analysis was used to analyse the data. The researcher had obtained essential permission from the voluntary organisation and informed consent from the participant.

3.1 Case Presentation

Summary of Profile and other Details of the Cases

Particulars	Case 1	Case 2	Case 3
Age	53	26	38
Family Background	Son and daughter (recently married)	Father and mother	Father, mother, younger sister
Duration	Almost 2 years	5 years	14 years
Earnings per day in Rs.	1,000	2,000-3,000	1,500
Reason to start sex work	5 lakh debt after daughter's marriage	Abused by father and relatives because of which she found pleasure in having sex.	Abused by massage parlour owner and trapped into sex work.
Opinion about the Sex workers work	Made her feel bad to be a sex worker and she always wanted to leave the job once she settles her debts.	Made her feel good. Became independent and makes enough money.	Made her feel good because it gives her money.
Discrimination inside or outside sex work	Old customer abused by calling names because she neglected having sex with him	Discrimination has been faced from her cousin who was the only support at home after realising her current status as sex worker.	Outside the work she hasn't faced discrimination but inside work from customers she has faced lot of abuses.

Detained or excluded from doing a task due to job status	No, as only few know her work	Not yet	Have not thought of it- have faced exclusion from police and shop keepers.
Any personal stigma	Internalised stigma was always felt guilty	Not felt stigma because sex work is for her is pleasure of having sex.	She has felt stigma about her body and her fate.
Discrimination in finding another job	Not tried for another job.	Not tried for another job.	Was working in massage parlour and it ended up being sex worker
Reason for considering sex work as job/not job	Cannot consider as job- can find better jobs with good status if educated. Sex work is just a means of making better money.	Considers it as a job as it is equally important and difficult job.	Considers it as a job.
Can any other job satisfy you?	Yes definitely	No other job can satisfy her because of her abuse history.	She does not have confidence to do any other job.
Do you get benefits from this job? (if yes, what)	Yes, can make good money within few years. But it has risk of Sexually Transmitted diseases and family getting to know.	Yes there are benefits she gets- good pay by doing this job which makes her happy and satisfied.	Yes, can get enough money.
Limitations in leaving the job	Debts, education of her dropout son should be revived, rent for house.	No direct limitations she mentioned.	Self consciousness was her barrier to leave sex work.
Space to decide when to leave the job	She thinks that anytime she can leave the job, but also mentioned about women who are trapped and can't decide.	Never thought of leaving the job.	She thinks that enough space will be there as it her own choice.

*Human Rights of Sex Workers with Special Reference to
Amnesty International Policy*

While leaving the job will your human rights be violated	Have not thought of it but she thinks she might face some amount of human rights violation	Don't know	She thinks that always she would have the space to decide on her rights to leave the job
By decriminalization of sex work would you get respect from society	May gain respect and dignity but peoples attitude should change.	Decriminalizing sex work will help in giving respect to sex workers and gaining equal rights.	Decriminalizing would help sex workers freely solicit but things won't change so fast.
Decriminalization can reduce police abuse or not	Cannot reduce police abuse even if it is decriminalized because police mindset should change.	Police abuse can also be reduced.	Police abuse won't reduce by decriminalization
Decriminalization can promote safe working or not	Safe working condition is a dream for Indian sex workers. As the harassment faced by them are very high. Grass root level changes should happen.	Safe working can be guaranteed.	Safe working conditions will be guaranteed.
Awareness about laws pertaining to sex work	Not aware of the laws but knows it is legal and soliciting is punishable	Aware about the law pertaining to sex work.	Not aware
Have you approached judicial system for any help	Not yet approached judicial system.	Not yet approached judicial system.	Not approached
Approach of police	They do help but there are times when they don't help.	Mixed reaction- sometime they act well other times they are not.	Bad experience from police officers always.
Access to health care and regular check-ups	Has proper access to health care and get health check-ups done with help of NGO	Has proper access to health care. Regular check-ups she doesnot give importance.	Has proper access to health care. Health check-ups done with help of NGO
Discrimination in health care	No	No	No

4. Discussion and Findings

The history of each case had different familial roles and job related traps which drew them into sex work. Factors like economic conditions, abuse history, upbringing etc. played major role.

4.1 Discrimination and Exclusion Faced by Sex Workers

The family background of the sex workers was one key element for most of them to choose sex work as job. Many sex workers have faced discrimination in the families and also have faced childhood abuse like physical, psychological, verbal etc. which becomes a major cause for entering into sex work. Some sex workers face economic debts which in turn make them feel sex work is a way to make money and get good pay.

Social exclusion would increase the vulnerability of sex workers to violence, drug use, negative health outcomes, poverty and mental health issues. All the 3 cases had somehow faced discrimination outside the work from police, shop keepers and inside the work from customers. In their own words... *I have only faced such a situation once when I refused an old customer who wanted to have sex with me... I didn't accept him because usually I avoid very old men...he was angry with the way I refused him and in front of some other sex workers he called me a "veshayi" which was a big mental stress for few days....* The second person (case 2)... *Faced discrimination from her close cousin who has started avoiding her because of the work." I don't know why she started avoiding me (sobbing) she was the only pillar of support I had. Now she also doesn't talk much to me.... I haven't met her also after leaving home if I meet and talk to her probably she would understand me."* For the third case,..., *Being in the job definitely there are customers who see me just as a sex toy. It's not just my experience but it's the story of majority of us.... So I would say in one way or the other way we face discrimination inside the job. There are women I know who get excluded outside the job just because they are sex workers..."*

Internalised stigma and agony was revealed in their words. Internalized stigma refers to a form of self-stigmatization whereby individuals accept negative judgments or attitudes applied to them

“There were times I thought I didn’t want to live but I survive thinking of the debts that I have.... I usually now find it difficult to talk to my son normally as I am guilty about what I am doing without his knowledge....”

“There were times when I drank liquor which my close customers would buy for me I used to booze but then now I have reduced it and concentrating more or being attractive to my customers and abide by their demands...”

“I have always felt this was my fate for which I was born....sometimes I go back to my room and look at myself, my body has been used so many times by so many people and there are scars all over which is not visible to anyone....to be honest I hate myself being this way...”

Earlier studies show that the Personalised stigma, the major one affecting sex workers along with a number of forms of stigma that have been identified, including internalized, perceived, experienced, layered, as secondary stigmas. (Alanna Fitzgerald-Husek, 2017)

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) Committee recommended the need for measures to prevent discrimination against sex workers and ensure that legislation of their right to safe working conditions is guaranteed. (Universal Periodic Review, 2016).

4.2 View of Sex Workers about “Sex Work” as Job

Almost all sex workers consider sex work as job, it gives most of them socio-economic stability, pleasure and more. Therefore to many it is a job which is equally important like any other jobs. There are both Pull and Push factors which make sex workers opt for the job. The “pull factors” are affluent lifestyle, availability of better employment and payment opportunities. Sex work offered all the 3 cases with good amount of money which was the “pull factor” into the job. The “push factors” are demand for sex, previous abuse history of the sex workers, negligence, illiteracy and more.

4.3 Rights of Sex Workers to Leave the Job

Leaving sex work may be particularly challenging for women, for a number of reasons; they may have limited access to another employment opportunities, stigma faced from the society etc. The limitations that stopped the women

from not leaving the job were debts, self-consciousness etc. The challenges they think faced while leaving the job are lack of proper skills to work in another job sector as they are not well educated, stigma they may face from the people who know their sex work history, another major problem they face is the self-consciousness which stops them work in another place. As one of the sex worker quoted “Once into sex work we remain always a sex worker.”

The Supreme Court of India has observed that sex workers are entitled to the right to life and must be accorded the protection guaranteed to every citizen. It instructed the State to provide recommendations on the “rehabilitation of sex workers who wish to leave sex work of their own volition and to provide conducive conditions for sex workers who wish to continue working as sex workers” in accordance with Article 21 of the Constitution. (Universal Periodic Review, 2016). This research supports in sex workers rights to leave the job, recognising sex work as work would support sex workers in a person centred way which respects individual choices. If they no longer want to do sex work, they could choose to leave their jobs, and the skills they develop and use in sex work could be more likely to be recognised and valued by other employment industries. (NSWP, 2017). There is no legislative guarantee of equal working conditions for sex workers in India which in turn has brought into low social security for sex workers, no equal treatment of equal value provisions and no government funded child care for sex workers’ children. (Jaya Sagade, 2018)

4.4. Need for Decriminalizing Sex Work

Decriminalization may help in reducing the harassment faced by sex workers but changes wouldn’t happen so fast and also the mindset of people also wouldn’t change rapidly just through decriminalizing.

Case M

“Whatever changes that come in the law it wouldn’t change the perspective of people or their mindset....”

Case N

“The problem lies in how people look at us... decriminalizing to an extent can reduce the notorious looks etc of people around us but changes should be taught from a child to any elder that we

are also normal...we live in this normal world and has the same rights like any other person working and also we would get to freely solicit or move around as part of our job....”

Case P

“People like me have faced so much abuse from the customers, their attitude is the same and through decriminalizing sex work such things won’t change.... yes it would help us to gain acceptance but the plight of us won’t end.”

Two cases strongly said police abuse won’t reduce just through decriminalizing and the other case said police abuse can be reduced by decriminalizing sex work. Safe working condition is an area which has dilemma in it where sex workers are not safe with customers and by decriminalizing sex work this would still remain the same but on the other hand decriminalization can also give safe environment and help sex workers to solicit without fear.

4.5 Accessibility of Sex Workers to Judicial System and Health Care

The International Labour Organisation (ILO) and the UNDP have emphasised the need for sex workers to have access to legally enforceable rights to occupational health and safety and also the right to participate in the process of developing workplace health and safety standards. Police officials treated sex workers not in kind manner and it was the same with all the 3 cases but there are times when some police officials help sex workers to escape from raid.

Case M

“I have friends who say police are rude to them in the police station but as a customer they are good to them....there are some benefits if we have police officers as customers. Some of them are helpful and they tell us when there is checking in the area so that we can be safe....

Case N

“I have had sex with many police officers and only few have actually helped me back when there was checking near Medical College area. Some of them inform... but most of the time they

arrest us... I am known to almost everyone near Medical College. Once there was an incident when I was soliciting near the bus stand a group of police officers came and asked me to get into the jeep, I had to listen and get in...they were abusing me and also made me pay the fine and then only they left me from the station...there was a police officer who knew me but he didn't even take the effort to inform me...."

Case P

"I have never had any good police officers who supported me.... the only thing they do is get hold of me if they see...they don't usually listen to our story or even show patience...."

People in positions of authority routinely demand sexual favours from sex workers and they regularly abuse sex workers verbally using specific sexual language. A safe working environment through standard labour protection measures continue to be denied to sex workers. This includes access to benefits, legal redress for workplace grievances, adequate health and safety regulations. Detention of sex workers in rehabilitation centres without access to legal counsel or right to appeal are human rights infringements that need protection under adequate labour clauses.

Health access and regular check-ups were given importance by two cases but another did not have regular check-ups. They were all happy about the non-judgemental attitude of health setups as they have not faced any discrimination in that health sector. Sex workers and people living with HIV frequently experience stigma and discrimination when accessing health care but in Kerala, sex workers have not mentioned any kind of discrimination from accessing health services. This is because of the knowledge of health service staffs on considering sex workers in gaining standardized health services like testing and treatment of sexually transmitted infections (STIs) and HIV.

5. Suggestions

Legal recognition of sex work as a "job" should be assured. Decriminalization of sex work increases women's self-determination. Better access to health care services and judicial system will empower them to report violent incidents to judicial system. They deserve equal rights and justice — and the availability and access of appropriate legal assistance to obtain it.

All members of the police and other law-enforcement entities should receive regular training on issues related to HIV, drug use, and the legal and human rights of sex workers. Ensure participation of sex work organisations in drafting/amending laws, policies and programs relevant to them and in its eventual implementation process. Ensure delivery of legal services and/or referrals to existing legal services to ensure that sex workers have support to seek redress including appeal to higher courts. Building supportive environments and developing and strengthening strategic partnerships will help reduce the stigma and discrimination sex workers face. Social workers can perform advocacy in favour of the sex workers with different government and non-government agencies for their effective rehabilitations.

6. Conclusion

The study tries to understand the human rights of sex workers with special reference to Amnesty International Policy. The study focuses on different themes relating to the problems faced by sex worker in the society such as discrimination faced by them, their view on sex work as job, rights on leaving the job when they choose to, decriminalizing sex work, access to judicial help and basic health care services. Sex workers still faced various kinds of human rights violation. Sex workers are frequently subjected to punishment, blame and social exclusion for being seen to transgress social, sexual and gender norms or stereotypes. Decriminalisation of sex work is a pre-requisite to ensure the physical and emotional inviolability of sex workers, their right to life, right to freedom of labour, health and reproductive and sexual rights. As a job sex work should be considered as any other monetary employment to gain acceptance from the society. People in positions of authority routinely demand sexual favours from sex workers and they regularly abuse sex workers verbally using specific sexual language. Amnesty International considers that there is greater scope for sex workers to benefit from labour-based protections from exploitation where sex work is not treated as a criminal activity. Policies relating to human rights of sex workers exist but the implementation and knowledge about it is low. Sex workers should be more empowered to claim their rights and seek protection from exploitation under the law when they do not have to risk criminalization and/or penalization as a consequence of engaging with law enforcement.

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