FOCUSBING ON THE MOST MARGINALISED SECTOR IN
THE CURRENT PANDEMIC: THE SEX WORKERS

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ABSTRACT

Due to the outbreak of COVID 19, when social distancing and avoiding physical contact became a norm that restricts the “dhanda (a colloquial term meaning 'business') of the sex workers. School of their children turned out of lack of devices like smartphone, internet facility, etc which is needed for online classes. All workers are living in one apartment in claustrophobic cabins as the brothel owners shut the business. Govt. barely thinks about them also doctors are not willing to visit their places. Initially, some of the NGOs started to help them but they also could not foresee the long-term lockdown problem. The majority of the clients of the sex workers comprise migrant labourers but an exodus of migrant workers makes their life more miserable. Some of the sex workers are also migrant workers but they hide their status from their family and there is no way to return. More than 90% of Commercial sex workers are in the street under permanent debt bondage due to this one year and more of the pandemic. This kind of heavy debt bondage becomes intergenerational bondage where sex workers in the future might force their daughters too in sex work for repayment of such debt.

On 29.09.2020 the Supreme Court ordered that the Centre and State should provide dry rations, monetary and hygienic assistance under the National Disaster Management Act, 2005 without insisting on identity documents of the Sex workers but different State Govt, provide dry rations to those only who have ration cards and monetary assistance to those who have bank accounts. Only 30% of the Sex workers can avail this facility as most of the sex workers are coming from trafficking or some other adverse area and they don’t have any identity card. Now in this pandemic situation, they can’t go for a plea to any authority.

With this paper, I would like to revisit the challenges which the sex workers are facing throughout their life, specifically after one year of the pandemic, and what is needed to be done on the side of the Criminal Justice System.

In India, Sex Works are not illegal but brothel owners, traffickers, pimps are illegal under The Immoral Traffic (Prevention) Act, 1956 (ITPA), in this situation the welfare and protection of
this vulnerable group much needed. Sex works are not illegal but criminalizing brothel owners adversely affecting their livelihood. Now Law and Justice can only save them by providing them adequate status, position, alternative ways so that they can live their life humanly. One time judgement and order on the side of the judiciary is not sufficient to mitigate the issue. Follow up procedure addressed by the Govt. and judicial system or order to establishment of Commission or Committee which continuously can handle their matters may give some relief to that group. And it is unforeseeable that how long the Covid waves will go. Will life ever get back to normal for this group?

BACKGROUND

Sex work is not illegal in India only the brothel keepers, pimps, traffickers are liable under The Immoral Traffic (Prevention) Act, 1956 (ITPA). Now due to this Covid-19 outbreak Sex workers communities are facing new vulnerability and waiting for the Governments’ responses. This is one of the most unorganized and marginalized sectors where workers are not ready to reveal their identity rather prefer to hide their job status from society and do not ready to join their hands with other workers, associations and organizations. The Sex workers are taboo in our society and they are still uncounted, invisible and stigmatized. In this, amidst lockdown, every life of sex workers is out of work and penniless. Generally the society keeps mentally distance from the sex workers but now practically they are keeping actual social distance from them which make their life more miserable.

More than 8 lakh sex workers are there in the whole country, however unofficially these numbers far higher in India continue to be one of the most marginalized populations. Out of them 96% of sex worker have lost their source of income or livelihood in this pandemic situation. 71% of total social workers are not having any other means of livelihood. 33% do not have enough to eat 3 meals a day. According to the All India Network of Sex workers (AINSW) 60% of Sex workers have gone back to their home states after the spread of Covid 19 which is almost an estimated 3000. In Delhi, there are only 5000 registered sex workers. Apart from these there are lots of informal workers who have not registered under the NACO or AINSW to hide their status and identity from society.

Mumbai and Kolkata have the highest number of cases of women and child trafficking where the trafficked girls know that their families will never take them back and there is no place left for them where they can return. They have to find an alternative way for their livelihood.

**PANDEMIC PROBLEM OF SEX WORKERS**

For the commercial sex workers when the social distancing and avoiding physical contacts became a norm that restricts their “dhanda (a colloquial term meaning 'business') as a result they are now jobless.

Those who are unable to pay rent and live their lives on fear of eviction barely can think about their children online education and School of their children turned out of lack of devices like smartphone, internet facility etc. Some of the workers are also harassed by the brothel keeper for not providing the rent. The brothel owners shut the business and the workers are living in their dingy quarters and they barely can go to the shop to buy food and medicine because authorities strictly monitoring them. These all workers are living in one apartment in claustrophobic cabins, if anyone gets affected then others can get affected easily in this situation. For this, if accidentally any client wants to visit the place, other workers restrict their entry with the fear of the spread of coronavirus. Police barely listen to them also doctors are not willing to visit their places. Initially, some of the NGO’s started to help them but they also could not foresee the long term lockdown problem.

It is very hard for them to find a normal job or go back to mainstream because that takes a huge time and struggle. In this pandemic situation where people are terminated from their permanent job then who will give them a new job or work to survive and to feed their family and children without proper educational degree and experiences for alternative work. From the starting of the pandemic till now they have no customer, no food, and no medicine which is impossible to survive. Now not only are the clients the workers also scared to get infected. Most of them choose this business to escape poverty but now they find themselves in the middle of nowhere.

**UNDER DEBT BONDAGE & SEX SLAVES**

More than 90% of Commercial sex workers are in the street under permanent debt bondage due to this more than one year of the pandemic because mainstream prostitution is not possible in this situation. They are facing financial exploitation in the aftermath of Covid 19. As these sex workers do not have savings and they are depending on their day to day earnings, now they need loans as they have no more day to day earnings.
According to the National Aids Control Organisation (NACO) out of the total 7,76,237 sex workers in India, 1,29,000 are from Delhi, Maharashtra and West Bengal. Due to this pandemic, most of the sex workers are relying on loans and are borrowing money at high interest rates to sustain their lives from informal sources like brothel owners/operators, pimps and other money lenders who are exploiting their lives into bondage system as they don’t have any formal personal identity proof through which they can access bank accounts and formal sources of credit. These debts needed to be repaying by them as sex slaves for the rest of the lives. The rate of interest is too high than other normal loans and they raised their interest like 12% to 25% in some places 30% to 40%. They are already previously been under the interest now also taken money and debts over debts are creating wreck havoc in their lives and after the second wave of Covid 19, it became a continuing process. They are under the debt traps as it’s very hard for them to repay loans in this new normal situation. Now they are under indefinite bonded labour situation which bushed them into debt bondage and irreversible slavery in aftermath of Covid 19.

Over the lots of sufferings like young age prostitution, victims of trafficking; now this debt bondage makes their life more miserable. In India, 95% of trafficked victims are forced to join the prostitution business reported by the National Crime Record Bureau (NCRB).

This kind of heavy debt bondage becomes intergenerational bondage where sex workers in future might force their daughters too in sex work for repayment of such debt. The brothel keepers, managers and pimps use such debts as a coercive binding factor to intimidate and control the sex workers and their future generations further. With that fear, some workers are so desperate to earn money even they entertain the clients in this pandemic situation.

The abovementioned research regarding permanent debt bondage of the Sex workers was conducted by Dr Beulah Shekhar who examined the financial exploitation facing by the sex workers community in the aftermath of Covid-19 pandemic who is an Emeritus Professor of Criminology at Karunya Institute of Technology Sciences (KITS) situated in Coimbatore, Tamil Nadu.²

SUPREME COURT'S VERDICT AND ISSUES

A Criminal Appeal filed in Budhadeb Karmaskar vs The State of West Bengal & Ors. on the demand of:- 1. Monthly dry rations and 2. Cash transfer to the tune of Rs-5000/ before the bench of Honorable Justice Mr. L. Nageswara Rao and Justice Ajay Rastogi. Upon the virtual hearing on 29th September 2020 after the 6 months of lockdown, Supreme Court ordered that the Centre and State should provide dry rations, monetary and hygienic assistance like soap, masks, gloves, sanitization under the National Disaster Management Act, 2005 without insisting on identity documents to all Sex workers who are identified by the National AIDS Control Organisation (NACO) and Legal services authority but no financial assistance help given to those who are unregistered, undocumented and do not have any identity proofs and bank accounts.  

This case was mainly filed by the Durbar Mahila Samanwaya Committee, the country’s oldest sex workers collective of the Sonagachi area in Kolkata. Previously also they have filed a case on 04.02.2011 regarding the basic human rights of these vulnerable group where the Supreme Court on 14.02.201 stated that these Sex workers have the right under Article 21 of the Constitution of India for Right to life with human dignity also other issues including prevention of trafficking, rehabilitation of sex workers who wish to quit the place and start a new life.  

The Apex Court of India ordered that appropriate authorities like State Government should issue Ration Cards to the workers and also ordered to provide Voter Identity card. If a sex worker is a citizen of India then merely because of her profession her right shall not be denied. Also, the children of the sex workers have the Right to Education under Art 21A of the Constitution of India and Central Govt., State Govt., Local Authorities shall ensure the admission of these children of sex workers to any local Government recognized schools without any kind of discrimination.

Sonagachi one of the oldest and largest red light area in Asia comprising around 10000 sex workers and their family members now run out of business. State Govt. extended help which benefitted only 1500 sex workers. Many of them are coming from all over India, Bangladesh, Nepal and Bhutan now they are unable to return due to this pandemic with empty hand.

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According to Dr Smarajit Jana, "It is not only about Sonagachi. The same condition is suffering by every sex workers from all the corner of India. 50% of the sex workers across India do not have ration cards or any documentation to avail the Govt. scheme".

Dr. Jana was the founder and Chief Advisor of Durbar Mahila Samanwaya Committee situated in Sonagachi, Kolkata, which is a collective of 65000 sex workers in West Bengal in 1992. But the sudden demise of Dr. Jana due to Covid 19 on 08th May, 2021 left the sex workers and the whole community shaken.

Maharashtra Govt. issued a direction to provide Rs-5000/ those who have bank account and 5 kg dry ration to those who have ration card as a monthly aid to the sex workers after the order given by the Supreme Court. And the majority of the sex workers are coming from trafficking they do not have any such documents and identity proofs and bank accounts and permanent address. Later on, the Govt. stated that no id proof is required to avail dry ration but for Rs 5000/ they must have bank accounts and Aadhar Cards. But most Public and Private sectors banks were not willing to open zero balance bank accounts and bank officials said that they required a minimum of Rs -2000/ to open a new bank account, that much money also cannot be afforded by the workers as they have taken a loan on the rate of 20-40%. That’s how the sex workers are surviving. Also to generate an Aadhar card and open bank accounts take time. Some of them said that they have applied for a Voter Identity card and Aadhar card but yet not received it.

Only foodgrains, utility relief and Rs-5000/ is not sufficient and do not meet up the needs of the sex workers to pay their rent, debts, medical and children education expenses. Over 14,000 estimated commercial sex workers under the Mumbai District Aids Control Society, only 5600 workers get benefitted from the Govt. rationing scheme.5 Although apart from these there are also unregistered sex workers who hide their identity regarding the stigma attached to their works.

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A Delhi based NGO Kat-Katha is helping the sex workers and they ensured that the workers must not go without food and medical supplies. But due to lack of fund and long time, lockdown they have not able to carry out the relief work.6

On this Second wave of Covid 19, Govt. decided to vaccinate the people who do not have any Identity proof and The District Task Force (DTF) will identify such groups of persons. But to avail the scheme there must be a facilitator under which this identity card less groups can register their names. Now this is the big question that whether the sex workers will be covered under this group? If yes, then who will be their key facilitator under which they can register their names?

**ALTERNATIVE WAYS AND IT’S PROBLEM**

Tech savvy workers are found the alternative option and continuing their works and keep satisfy their clients via Video and phone chat, Group chats on conference calls, Sending nudes and pictures, Sharing photos with clients on demand, Accepting e-payments. Other alternative ways they use to avoid physical contact are dancing, striptease or only talk no touch sex. But most of the times they covered their faces and not recording the session as they are secretive about their profession.

Many NGOs also conducted classes for better use of technology and e payment related issues, uses of smartphone etc but it is very difficult for them who do not have electricity, internet and smartphone.

Also in online mode, there are chances of Video recording and photography of their acts and later on, in many cases, it has been seen that the parties or clients published the same on the internet or dark web to earn money. Going online is a problem like they said that we are the sex workers, not the porn stars, what if our activities are recorded and videos leak on the internet. Also after completion of the consignment, parties are refuse to give payment by stating that they are not satisfied or mostly forged them.

Those areas which are not designated red lights areas, sex workers over there are hidden and barely can help themselves. Also, for migrants sex workers who have returned to their home, it

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is very difficult for them to perform such online activity while living with families stated by South Indian AIDS Action Program.

For middle and high income clientele have the option to use phone internet and other online modules but lower income workers and clients barely have any necessary skills, space and connection for this. Many workers started alternative ways like selling fish, vegetables, tea stalls or also making masks sanitizers, PPE kits but these can’t be a permanent solution for the huge number of workers present in India.

AFTER LOCKDOWN EFFECT

After the lockdown when many of the sectors are opened and people are returning to their workplace with maintaining all Covid 19 protocols but it is hardly possible to open their field with social distancing norms. They have started their business but barely anyone coming and they stayed back for the fear of transmission of the virus. The stigma attached with the profession only adds to the burden for those who kept their work a secret. After opening of most of the companies they are asked by their family members that why they are not returning to their workplaces? It’s very hard to answer this kind of question.

Though after partial lockdown they have started their business ensuring client showers before the act, wears a mask, using sanitizers, thermal guns, glove etc but every time clients are also not cooperating with them to maintain every Covid 19 protocol. Also, the clients are suffering from monetary issues now they cannot afford or want to spend money on sex worker for their pleasures. Most of the clients who are migrants returned to their hometown and not coming back as their job status also not stable.

SUGGESTIONS

Recognition and registration of sex workers are important to get all the benefit. A temporary document must be generated for them to access welfare measures like PDS, insurance benefit etc – suggested by SANGRAM, a Maharashtra based Sex Workers supported NGO.⁷

Govt. should provide some rehabilitation and other vocational and skill development program so that the sex workers can get an alternative livelihood. They almost lose hope to return to

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their workplace soon. To protect the rights of the sex workers those data and status are required to collect by Govt. level.

Our constitution of India provides right to every citizen which includes Sex workers too. In India manager and handler of the brothel, pimps are liable under the immoral Trafficking prevention Act but not the sex workers. Then why the Govt. does not care about this section. It reflects the lack of implementation on part of the Govt. regarding the Constitutional rights or legislation of the sex workers as well as the continued stranglehold of social exclusion and hierarchies. They need an alternative livelihood for that they need money and without proper paper and id, no bank or small finance organizations will give them money.

State and Central governments must establish a fully functioning rehabilitation centre that has dedicated units for preparation, channeling, monitoring, and evaluation stage programmes to help sex workers who want to start a fresh chapter in their lives by moving out of this place.

The Government and United Nations Bodies are informed about the fact of the Sex workers in this pandemic consistently but they are so busy handling this Covid 19 situation and barely look into the matter which is suffered by the vulnerable minor communities like sex workers. After the first lockdown to the new normal and now again with the 2nd wave of Covid 19 many people lost their jobs, deaths of thousands due to the virus, migrant workers situation, over this all Govt. missed the cry of these groups. But in July 2020, the home ministry also directs to combat women and child trafficking. Actually due to the lockdown traffickers are getting mad and they need money too to run their lives so they started more tracking which creates the situation more miserable. In this new normal, the States, Districts need to upgrade and strengthen their anti-trafficking squad.

CONCLUSION

One year ago the red light areas resumed business but the impact of this lockdown still very much visible. Now in this second wave of Covid 19 which is more deadly than the first wave people are keeping more social distance and maintain no touch norms rigorously which affected the business of the social workers uncounted. Most of them think to quit the job and said that if another lockdown persists or things are going like this they will be killed if they don’t get help from Govt. But for many aged Sex workers, it is very hard to find an alternative way of earning and they are incapable of doing any other work at this age and they most of the time sitting idle in their places.
Will life ever get back to normal? As Covid-19 is spreading, it's a question that haunts all sectors of society but perhaps this vulnerable group most of all with the fear of being pushed further into the shadows in an age of social distancing which is darkening their present and clouding the future of many sex workers who are working in the red light to eradicate their poverty.

Some of the sex workers found alternative options via phone and internet sex which is also not possible for all aged sex workers and clients or for others who don’t have any smartphone and electricity in their area or if possible they are under the fear of video recording and screenshot taking, moreover, they are not even ready for this alternative way. According to the Universal Declaration of Human Rights, “All human beings are born free and equal in dignity and rights. Now both the Central and State Govt, also the Judiciary should provide some alternative way of livelihood to this vulnerable group till the situation changes. Not only a temporary solution but permanent and follow up implementation is also required to protect the lives of these vulnerable groups.

Now how these bees of red light areas can balance between life and livelihood is the big and prime question at this point of time when we are standing on the edge of third wave of Covid-19 in India.

References:-

1. The Immoral Traffic (Prevention) Act, 1956