



Legalization Of Sex Work in India: Perspectives on Changes in Socio-Economic and Living Conditions of Female Sex Workers

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Abstract

Sex work has a long history in India right from the ancient times but for a long time, the profession is not considered dignified in Indian society. In recent days sex work has been synonymous with discrimination, exploitation and violence. Estimated 8.25 lakh identified female sex workers (FSW) in India were considered immoral and they are marginalized in society which will affect various dimensions of their living conditions. On 19 May 2022, the Supreme Court of India declared sex work as a profession, like any other professionals, and sex workers are entitled to dignity and constitutional rights, protective mechanisms. This research paper aims to study the changes that are reflected on socio-economic and living conditions in female sex workers through legalization of sex work in India. The present study is qualitative in nature. Multiple case study design is used to understand the socio-economic problems and living conditions of the female sex workers. Thematic data analysis was adopted to analyse the data which was collected through semi-structured interview guide. The cases are purposely selected. Social Work interventions for addressing the challenges of female sex workers are also presented as a model to ensure the rights, dignity and worth of commercial sex workers under the new law on the legalization of commercial sex work in India.

Key Words: Female Sex work, Legalization of sex work, Social Work Intervention

Introduction

Sex work in India is an age-old profession. Sex work is mentioned in various Hindu mythological inferences referred as apsaras. It has been a part of Indian society from the ancient period of civilization. In recent days, sex work has become synonymous with violence, discrimination and exploitation. Sex work, is the provision of sexual services for money or its equivalent. It may be male, female, or transgendered, and the boundaries of sex

work are vague, ranging from erotic body displays without physical contact with the client or through high risk and unprotected sexual intercourse with numerous clients (C Harcourt, B Donovan, 2005). Presently, it is estimated that there are approximately 3 million sex workers in India, an overwhelming majority in the age group of 15-35 years (Mishra & Mazid, 2022). Sex work is a highly stigmatized activity, especially for women in India. The term “sex worker” recognizes that sex work is a

work while prostitution, on the other hand, has connotations of criminality and immorality. Many people who sell sexual services prefer the term “sex worker” and find “prostitute” demeaning and stigmatizing, which contributes to their exclusion from health, legal, and social services (Open Society Foundation, 2019). The Suppression of Immoral Traffic Act, 1956 was the first sustained legal effort concerning with prostitutes in India. The purpose of the act was to abolish trafficking of women and young girls. The law does not criminalize prostitution but organized form of prostitution is against the law. The central government under this act has powers to allow police officers arrest without warrant in any premises where this offence is suspected of being committed and rescue a person forced in this profession (Lamba, Payal, 2013). On May 19, the Supreme Court of India (SC) gave directions for recognising prostitution as a profession and emphasising that sex workers, like any other professionals, are entitled to dignity and constitutional rights. (Mishra & Mazid, 2022)

The term “Devadasi” was used in India particularly to describe a person who was known as a servant of Deva, such Devadasis did not only work in the temples, but they were considered as holy. Devadasis were married to a deity. They were supposed to take care of the temples and perform rituals. They also involved themselves in performing various classical arts forms. Due to these reasons they enjoyed high class social status. Many temples were destroyed in the Islamic times due to which there was a fall in the system of devadasis and status of temples fell quickly in India. The temples lost their kings and they were also destroyed and the devadasis who served the temples did not

have a place to go and they became poorer and hence they were forced into prostitution. The concept of prostitution became quite popular in the 18 and 19 century when the britishers invaded India. Devadasis danced and entertained them. But when the British ladies started visiting India the demand for Indian prostitution decreased (Anushka Ambli, 2018). Mumbai's oldest and largest red light district, Kamathiputra is quite famous for sexwork in India. In the 1800s, the British military established and maintained brothels for its troops to use across India. The girls, many in their early teens from poor, rural Indian families, were recruited and paid directly by the military, which also set their prices. By 1864, there were eight neighbourhoods in Mumbai which were home to more than 500 prostitutes (Horrors of India's Brothels Documented, 2013).

Sex workers during their working life, in India were subject to frequent harassment and detention by the police, even though, according to the Immoral Trafficking Prevention Act of 1986, sex work is in itself not illegal if it is practiced privately and independently. Sex workers are often arrested by police, arrested women and girls are released later in return for money (Misra, G., Mahal, A., & Shah, R., 2000). Due to the geographical proximity with neighboring countries, sex work in the north-eastern Indian states of Manipur and Meghalaya, recognized for high prevalence of drug use and drug trafficking. In addition, scholars have argued that rapidly growing levels of migration, poverty, extensive globalization, privatization, and structural adjustment policies adopted by the government have forced a significant number of women to compete with men in the labor market, but due to limited employment opportunities and

omnipresence of workplace sexual harassment, sex work becomes a survival mechanism for vulnerable women with poor literacy skills and lack of family support (Sinha, 2014). The sexual intercourse and physical sexual activities may lead to various physical illness and diseases.

The circumstances of Covid 19 known to lead to an increase in the proportion of people in sex work (Clare Bambra, 2020). The pandemic had a large impact on unskilled labourers. Many people in India lost their jobs due to it. Hence there was an increase in number of women coming into sex work field in order to meet their financial requirements during the lockdown period of the pandemic. Discriminatory treatment of certain groups by the law enforcement machinery can lead these groups to "go underground," with obvious adverse impacts on their access to and use of public services such as health and education (Misra, G., Mahal, A., & Shah, R., 2000). Hence it was necessary to support sex workers legally so that they can access basic amenities and ensure proper welfare. This paper tries to analyse how the new legislation have reflected on the lives of female sex workers and studies about their living condition in present scenario. The findings can be used to develop meaningful prevention programs in sexually transmitted diseases and also disincentivize women's entry into sex work and develop various social work interventions to protect their human right to feel safe and secure in her given environment.

Legalization of Sex Work in India

According to the IPC, prostitution in its broader sense is not really illegal, however certain activities associated to it are

punishable under certain provisions of the act, including

- a. Soliciting services of prostitution at public places
- b. Carrying out prostitution activities in hotels
- c. Being the owner of a brothel
- d. Pimping
- e. Arrangement of a sexual act with a customer etc

Article 19(1) (g) of Indian Constitution guarantees that all citizens shall have the right "to practise any profession, or to carry on any profession, trade or business."

Police personnel and courtrooms were overburdened with these cases on, having little or no impact on prostitution. The prostitutes and their customers pay their fines and are back to the streets in no time in a revolving door process.

Since the early 2000s the issue of human trafficking has captivated governments, NGOs, researchers, and activists around the world. Sex work was considered inherently degrading and is a result of coercion and sexual exploitation of women and girls. The remedy from the abolitionists' perspective is to increase criminal penalties of clients and traffickers (pimps, employers), and to engage in aggressive "end the demand" (criminalization and shaming) campaigns to curb men's desire for purchasing sexual services from women.

In contrast, sex worker advocates caution against sweeping generalizations of human trafficking. They assert that not all sex workers are women and girls, not all clients are men, and that not all sex workers are trafficked or forced into sex work (Barb Brents, 2013). In fact, many individuals enter the sex trade because it provides them with more opportunities for mobility and income than other types of work.

Immoral Traffic (Suppression) Act (SITA) was the Act concerning in India before the legal acceptance of sex work. According to this law, prostitutes can practice their trade privately but cannot legally solicit customers in public. As long as it is done individually and Electronic copy available at: <https://ssrn.com/abstract=1777035> voluntarily, a woman (male prostitution is not recognized in the Indian constitution) can use her body's attributes in exchange for material benefit. In particular, the law forbids a sex worker to carry on her profession within 200 yards of a public place. Unlike as is the case with other professions, sex workers are not protected under normal labour laws, but they possess the right to rescue and rehabilitation if they desire and possess all the rights of other citizens.

Critical appraisal of the Legalization of Prostitution

There having a lot of discourse regarding giving the legal status of prostitution in India. It is observed that it is the best measure to regulate prostitution. the fundamental rights of individuals enshrined in the constitution of India is applicable to the people and engaged in commercial sex worker activities too. this not only protecting their rights also provide the various forms of abuse and exploitation the sex workers are not only exposed to to the sexually transmitted diseases including HIV AIDS also they are suffering various harassments brutality etc. so in the year of 2009 there was a proposal from the Honorable Supreme Court of India to take a positive measures for legalizing the prostitution in India.

The legalisation protect the vulnerable session in the society, the commercial sex workers, ensuring the better health conditions, removal of the the middlemen

and the pimps from the system and preventing the criminal and exploitative factors. It will also reduce sexual violence, rapes and other forms of sexual assaults, eradication of forced prostitution. More than that, the basic rights of the workers are being protected under the initiative of legalising of prostitution.

Methodology

The present study has followed a qualitative research approach with an aim of understanding the perspectives on changes in socio-economic and living conditions of female sex workers in Kerala after the legalization of prostitution in India. Purposive sampling was followed as the sampling method and multiple case study design was adopted. The research was carried out in the capital city of Kerala, Trivandrum. Semi-structured interview guide was used as the tool for collecting data from the respondents. Data was collected from four cases with the help of an NGO working for the health and welfare of Female Sex Workers in Kerala. The researcher had obtained required permission and support from NGO and had taken informed consent from the participants. For reporting the major findings thematic analysis was done.

Specific Objectives

1. To study the socio demographic profile of the participants.
2. To study about various legal aspects on sex work in India in perspective of sex workers.
3. To study about changes brought through legalization of sex work in lives of female sex workers.
4. To understand various challenges faced by female sex workers.
5. To suggest various social work interventions for addressing the challenges of female sex workers.

Case Presentation**Summary and Other Details of the Case**

Particulars	Case 1 Shallot	Case 2 Omana	Case 3 Chinnu	Case 4 Manju
Age	35 yrs old	50 yrs old	26 years old	42 years old
Family Background	She is divorced Have a son who is 17 years old. He is ambitious and active in sports and getting many scholarships.	She has two daughters who are married. Her husband left her at the age of her early 20s. She is presently living alone.	She is living apart from her family. She was abused by her family members including her father in her young age.	She is having a partner who he's our previous client she has a daughter who is studying in 12th standard
Duration being in the field of sex work	14 years	20 years	6 years	22 years
Earnings per day	Rs.1000- Rs.3000	Rs 500 - Rs 1000	Rs.2000 to Rs.4000	500 to 2000
Reason to choose sex work as a job	She became pregnant at a very young age and was not married. Neglected from family and high financial constraints.	After her husband leaving her, she tried many jobs including vegetable selling home made works etc. but the income was not sufficient to look after her children. She was receiving very limited support from her family hence she has to start sex work.	It gives her money and pleasure.	She belongs to a fishermen community in Kerala. According to her in that community during her teenage time period, many women had entered in to this job and she was also influence to choose sex work.
General Characteristics	She mainly acts as a pimp. Have good knowledge and contact in this field. Usually aggressive	She is very calm in nature. She also works as a volunteer for the Welfare of female	She is very enthusiastic in nature	She works as a volunteer in an NGO associated with sex workers. She is bold in nature.

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	in nature. Talk in high volume.	sex workers in an NGO.		
Detail about arrested related to sex work	Many times	Twice	Never arrested	Arrested many times
Opinion about Legalization of sex work	According to her, through legalisation, arrest and legal actions against sex workers have reduced but the stigma in society and attitude of police still remains unchanged.	According to her legalisation of sex work is a good decision from court since women like her will be protected and given freedom to practice their job.	Decriminalising sex work will give more rights and freedom for sex workers	If we are behaving in a nice way and only looking to our job a police will not after a arrest legalisation of sex work is a good thing because atrocities against sex workers will be reduced
Approach of police before legalization of sex work	Frequent arrest when they see female sex workers in streets was present.	Earlier the police use to arrest women when they practice sex work. Especially in the setting of tree based and home based sex work.	Male police officers are approachable and respectable to them. Female police officers often behave in a rude way.	Police always have a stigma on sex workers
Approach of police after legalization of sex work	Stigma and indifferent behaviour still exists. When sex workers involves in crimes like robbery, police officers takes action legally.	Today police doesn't arrest when they found these women are practicing sex per but they do arrest if the sex workers are involved in any crime including robbery	No much difference	They don't arrest sex workers anymore but if any sex workers are involved in crime they will arrest and if we go to police station the approach of police will be very rude with us.
Have you approached judicial	To get bail and to take friends on bail	Never	Never	Yes many times including other personal issues.

system for any help				
Highlighted problem discussed being in this profession	Conflicts between community members. Name tag being a sex worker. Stigma affecting her son.	Stigma from society. Her neighbours name tag her in front of other people.	Often feels insecure. When she feels emotionally attached with the clients, at that time they misuse her mentally.	Sometimes some clients will mislead us and often take us to dangerous situations and they don't pay us.

Discussion and findings

View of sex work as a profession within female sex workers

"I had to choose sex work as a profession because there was very limited support from my family members. I was financially very constrained at that time when my husband left me. I had tried many jobs like vegetable selling, housemaid jobs but those income were not enough to take care of my children in a good way. Hence a lady helped me to join this job and I had to continue it because of the financial gain and pleasure which I was receiving from the job." said case 2. According to case 2, she was abused by her family members in a very young age and she chose sex work due to this history and an urge to continue sexual pleasure.

Hence financial constraints, and various difficult situations in life time lead many women to choose sex work as their job. Two of the case have discussed about their leaving of their partners and difficult situations in families led them to choose to be a sex worker.

"According to me only very less women leave the job after entering into sex work. Often some of them will marry their clients too. Most of the sex workers continue this profession because of the financial gain, pleasure and freedom associated with it." said case 1.

Most of the women find it difficult to leave the job once they came into the sex work. Financial gains, freedom which they are getting through this job and sometimes pleasure makes woman sustain in sex work.

All the cases responded that there are many risk factors that are associated with this job. Case 4 added *"one of a client took me to a forest area where he physically and sexually abused me and didn't pay me. After that it gives a lot of fear into my mind and I will only go for work with only trusted people"*.

Case 2 responded that *"there is a label in society once a woman is entered into sex work. The neighbours always see me in a very different way and often we end up getting into quarrels in the name of my job."*

All the respondents shared that there is stigma in their social environment including family and neighbourhood. Case 3 added *"in public settings, most people don't come and talk with me directly"*.

Case 2 said *"with the money earned through this job I could arrange the marriage of my two daughters without any support from any other family members. Without this job it would be very difficult."*

Case 1 said *"at my time of helplessness with my infant baby, this job was my only support to raise my child"*.

Two of the respondents shared that they had to choose sexwork during their high financial crisis. And they are proud to say that they are not financially dependent on anyone after choosing the job. This implies that one of the major impact of sex work is achieving financial benefits. When asked how they use their money earned, most of them responded that they spend on their dress, alcohol etc. Also they use money to fulfil their immediate needs. They have very poor financial management and often end up in situations of borrowing money from others and involvement in criminal activities like robbery.

Perspectives on Legalization of Sex Work

Case 3 says *“decriminalization of sex work may reduce the arrest of women by police but still the attitude of police and general public will remain same.”*

Even though the sex work is considered legalised, the stigma within people on sex workers remains the same. They often feel neglected and left out in the society that often creates very aggressive behaviour from them.

Case 1 added that it the way the police behave with them in a very rude way when they are found in streets even after legalization of sex work. Case 3 says *“there are any criminal activities within females sex workers towards their clients including robbery. That often creates problems with police. If we behave in a decent way without involving in criminal activities, the police won't take action on us.”*

Respondents had very contracting viewpoints on the behaviour of police towards them. Some said police still continue to behave in a very discriminating way while others said that Police treat them normally if they are not involved in any criminal activities. Anyways arrest and

view of considering sex work as an illegal activity have been reduced in judicial point of view.

Case 2 added *“ while approaching the healthcare facilities for various services like HIV testing and treatment for STIs, officials treat us in a very good way.”* Legalisation of sex work facilitates good health care services for sex workers. Health care accessibility and health seeking behaviour is advanced between sex workers through legalization. Hence diseases like HIV/AIDS and other STIs can be controlled even within the general population.

“Even after legalisation of sex work, there is no much changes in my personal life, people still continue to consider this job as bad and have to keep this job secretive.” responded case 2. This denotes that the legalization of sex work has not reflected much changes in personal lives of sex workers. All of the respondents agreed that there is limited involvement of police in their work. Still the attitude remains the same that they are bad within the police and general public. Sex workers feel neglected in society and finds it difficult to reveal their identity of their work. *“One day I was standing at the bus stop to go to the hospital. At that time a group of auto drivers came and quarrelled with me with verbal abuse. Police interpreted the situation. At that time, the police supported the auto drivers. Even if we stand in a public area casually, people misinterpret us and don't accept us as a normal person.”* shared case 4. Hence sexwork keeps their identity as sex worker away from their family, neighbourhood and other social systems. Case 3 added that *“while men come as a client to take service, they require us but when they see us in public areas, they consider us as a bad and*

shameful person. This mentality will never change in this society."

Scope of Social Work Interventions in Working with the Commercial Sex Workers

Social work is a profession aimed for promoting the wellbeing of all people, the irrespective of gender, colour, religion, occupation, status, or any other factors. Sensitizing Social Work practice to commercial sex work and understanding their difficulties on a humanitarian basis define the scope of social interventions in working with the commercial sex workers. As a human service profession, Social Work upholds human rights because it values respect, dignity and self determination which are embedded in the code of ethics of social work. The principles of social work including individualisation purposeful expression of feelings controlled emotional involvement acceptance non judgemental attitude client self determination confidentiality everything is connected with the life of commercial sex workers. The methods of Social Work including, Work with Individuals, Work with Groups, Work with Communities, Social Welfare Administration, Social Work Research, and Social Action are directly connected with the scope of social work interventions in the field of working with people engage in commercial sex work activities. The skills of social worker including empathy, communication, organisation, critical thinking, listening, patience, commitment, advocacy etc can be effectively utilised in working with this target group.

As reported by the respondents, still the stigma and indifferent behaviour exists in the society, social work as a profession need to strive for addressing this issue as it

directly affects the socio-psychological and living conditions of the commercial sex workers. Efforts needed to be taken for addressing the human rights violations faced by the sex workers. Popularising of the various dimensions of the legalization of prostitution is an important role the social workers can play. Through the organisations working in the field of human rights, community health, welfare of commercial sex workers, the awareness generations can be done. The primary and secondary methods of social work can be effectively used for intervening to the issue of the commercial sex workers. The empowerment and emancipation of the sex workers, one of the 'vulnerable' groups in the society can be achieved through the effective implementation of the government policy of legalising of prostitution.

Conclusion

Legalization of prostitution in India paves a path to decriminalising the sex work and sex workers aiming for ensuring a better quality of life and socio-economic living conditions for the people who are engaged as commercial sex workers. Effective and inclusive legal framework animal imitation of all the safeguard methods will ensure that the fundamental rights of the commercial sex workers will be met adequately. Through the legalization prostitution is given with the status as a profession. the people must be oriented properly towards the frame of legalization and they must be sensitized with respect to problems related to the commercial sex workers. It is essential to take adequate steps to prevent inhuman atrocities against them. A just and safe society is possible only through a collective effort which is based on fundamental human rights.

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