

## Rights Violations Cases And Recommendations

### **1) Right to access Legal Justice and Right to Education, Satara, Maharashtra**

On June 23<sup>rd</sup> 2016, a raid and rescue operation was carried out in Satara's Mulanchaodda area. 6 girls and 2 brothels were picked up by the police. The girls were sent to the remand home. Police sent a decoy customer to the brothel and stated the reason of getting money and condom as proof of running a brothel and the same was mentioned in the FIR copy. The police called for a press meet and gave the details like name and age of the women to the local media not adhering to the confidentiality of women. Pudari, a local newspaper carried the news with the names of the women.

Sunita who was having two children studying 10<sup>th</sup> and 11<sup>th</sup> standard in the local school were being asked by their friends about her mother's name in the newspaper. Her confidentiality was breached by the news published by the local media. The children's right to be protected was breached. The co students and Sunita's children knew about her status. Since, the rescue was covered in the local media, the landlords of the 6 girls who were rescued have asked them to vacate the premises. And not only the 6 women but other sex workers who were living near their homes and who were friends with the women were also asked to vacate the houses. All of them are now out of the remand home and have not gone to work since then. The three brothels are closed as of now.

### **2) Right to Protection, Solapur, Maharashtra**

Bunny (name change) is 26 years old Men having sex with Men (MSM) and HIV positive living in Solapur district in Maharashtra. He was a member of the Dostana Community based Organisation. A neighbour of his who was above 50 years of age would demand sexual favour from him. Bunny was avoiding any kind of contact with the person because of his HIV status and he was afraid of disclosure. Unable to bear his nagging/torture on a day to day basis, Bunny went and complained to the police but in vain. The police did not listen to him in the beginning but after the intervention of the NGO staff the police tried to convince bunny to compromise.

### **3) Right to life and Health, Chittoor district, Andhra Pradesh**

Chitra, 33, was living with HIV and was having two children of 6 years and 10 years. She migrated from Gudiyatam, a village in Tamil Nadu to Chittoor, Andhra Pradesh. Since she was infected with HIV, the members of Prema Sangham, the local NGO took her to the Civil Hospital in Chittoor to get her registered for ART. The doctors in the ART centre did not register her because she came from Tamil Nadu and discriminated her on the grounds of a sex worker. Because she could not get the treatment, she died. After her death, she was not taken by her family and her last rites were done by the CBO members. Her two children were taken by his brother and they were joined in a hostel in Chennai.

### **4) Right to Property, Sangli, Maharashtra**

In the Muslim marriage, the brides are given "Meher" by the groom's father so that when the marriage breaks she is eligible for 'Meher'. But in reality, the Meher given to the bride is so less that Rs 500, or Rs 5000/- which the women cannot survive for her lifetime. And once, the Meher is accepted in any form, the bride is not liable for any further right on her husband's

side property. Secondly, if there is a case of separation, then the bride is not allowed to take away her “Streedhan” like property, utensils, household items given at the time of marriage by the bride’s parents with her as her Streedhan is equated with the Meher she was given at the time of her marriage. This tradition on the marriage does not allow the Muslim women to acquire property in the family. Many Muslim women are barred from taking the social entitlement schemes because according to Islam, taking government or social entitlements schemes is a sin. So even though the women want to access the schemes, the religion and the other family members do not allow the women to access them.

#### **5) Right to work & Right to be free from Sexual Harassment, Thoothukudi, Tamil Nadu**

Ponnumani is a sex worker from Thoothukudi district, Tamil Nadu. She was working in ART centre of the Government Hospital for 3 years and then she worked in a private hospital in December 2015. Some of her relatives were also working in the same hospital and they disclosed her status as sex worker before the hospital Manager. As the manager knew that she was a sex worker, he started harassing her for sexual favours. Ponnumani straight away denied him for any such favours. With a deep sense of humiliation, the manager created a story as such Ponnumani was asking him for sexual favour in front of the Supervisor. The supervisor keeping the grudge started targeting Ponnumani for not doing her work properly and at a later stage removed her from her job. Ponnumani could not file a case or could complain against the manager because she was further afraid to disclose her identity in the society.

#### **6) Right to access Legal Justice, Chittoor District, Andhra Pradesh**

In 2015, Tara, a sex worker from Chittoor district, Andhra Pradesh was detained and was beaten black and blue by the police. Tara along with her friends was having tea near the bus stand in Chittoor. Another sex worker was travelling to her village and was boarding the bus in the bus stand. The police caught Tara and her friend from the tea shop, one woman from boarding the bus and another two from the bus stand. 5 sex workers were arrested on the same day and time and were taken to the Chittoor police station. The SI then called the media and showed a case of smuggling red sandal wood on the women. The local media took photographs. Then the women were beaten black and blue in the custody. With the involvement of the NGO, the Deputy Superintendent of police called the SI and asked him to leave the women. They were in the police station from evening 4 to 8. The sex workers were not able to get up from bed for 2 weeks and recovered only after 4- 6 months. All these were done so that the women should stop doing sex work.

#### **7) Right to Health, Solapur, Maharashtra**

On 20<sup>th</sup> August 2016, Shanti, a sex worker from Solapur was suffering from labour pain and was rushed to the government hospital for delivery by the members of Kranti Mahila Sangha. As she was getting into the labour room, the staff in the hospital asked her the address to be filled in the consent form and she told the address of “Thateena”. It’s is a place where sex workers stay. The doctor denied offering his services when he knew that she was a sex worker and asked the members to take her away despite she was bleeding. The CBO members took her to a private hospital where she delivered a baby boy. The CBO members had a take debt of Rs 20,000/- from various sources and got her treated in a private hospital.

In another case, where communities of all states shared that in Targeted Interventions, HIV testing for all are been made compulsory irrespective of the communities don't want to do. And after being done with the HIV testing, if there is any case of Positive, then they force us to link with CD4 testing, Hb, DOT testing, X ray all of that. They don't give time to the person to psychologically adjust or to react to the situation. Before going in for testing, the counsellors do not counsel on testing and in return they ask all unrelated questions to MSM and TG persons who come for testing.

#### **8) Denial of cultural Rights, Belguam, Karnataka**

Swati,(name changed) 32 is a member of Uttara Karnataka Mahila Otkuta Bagalkot district. She along with five more member of the sangha went to access loan from the State Bank of Hyderabad. The loan was needed to start a small cloth business by Swati. As she went to the bank with all the necessary documents, Mr Goudappa, Manager of the bank denied loan to Swati and said her that he knows that she was a sex worker because he came as a client to her once. And he further asked her as to why does she want a loan when she can earn money through sex work. The sangha members tried to explain him the situation but he did not listen.

#### **9) Right to access social entitlements, Vijaywada, Andhra Pradesh**

Anusha, 24 was an orphan when she was found to a sex worker in Krishna district. The sex worker brought her up and Anusha also continued to do sex work. She had a partner and went and stayed with him with whom she had a boy. The partner promised to be with her and take care of the boy and to give his name to the boy but due to family opposition he fled. Anusha had her second child 11 months back and she wanted to get their names registered. But the officials at the taluk office denied to register in the absence of a surname and asked her to get people from her ward who can give her children a surname. But no one agreed to give in their family names for her children. So, the children have not yet registered their names and hence they cannot go to school in the absence of a birth certificate. Anusha is also deprived of accessingsocial entitlements like ration card and Aadhaar card because of her proof of identity.

#### **10) Right to life, Right to Equality, Sangli, Maharashtra**

VamanNyayanerugune, 60 a dalit farmer had farming lands in his native village of Borgoan, Sangli. He was formerly working in a state run organisation in Mumbai andas he retired from his services he came back to his village to settle down. He had farming land that he bought it from his retirement money and he also started a small milk business in his village to eke out a living. The Marathas who are supposedly the upper class people in Maharashtra could not see a dalitgrowing financially and owing business in the village and with a lot of grudge on him, 2 Marathas murdered him in the village. The other Dalits in the village protested and stood for justice but the family of the Vamane did not supported the villagers and hence there was no legal action on the Marathas. This is a common in most of the villages in Maharashtra where people from the lower class are often stigmatised and discriminated.

In another case of such caste based violence in Konganoli Village of Sangli District, the Marathas tore the picture of Dr Ambedkar of during the birth anniversary celebration of Dr

Ambedkar on 26<sup>th</sup> & 27<sup>th</sup> of April 2015. The Bouddh caste people protested in front of Gram panchayat office and asked the administration to replace it. Due to this incidence, the whole block of KavatheMahankal block was closed for the whole day.

### **11) Right to Health, Bijapur, Karnataka**

In Bijapur, Karnataka, venkatesh, alais Venkamma, a trans women from Bijapur, Karnataka was raped by 5 goondas on August 2016. When she went to the civil hospital for first Aid, she was denied first aid. She went to the CBO and asked them help. The CBO members spoke to the counsellor; the counsellor says that she is not a transgender as she has male organs. And the counsellor denied to accept the incident as rape. The next day, the crisis response team went to the district hospital and did advocacy with the District Health officer. Then the Transgender got treatment.

#### **Recommendations:**

In Primary health centres, sonography machines do not work, and this creates a problem for the pregnant women. In PHC and in Civil hospitals, when the women have the right to abort till 22 weeks, many doctors do not do it.

A girl went to delivery and there is no electricity, so instead of stitching the vagina, the doctor stitched the Anus. And when she was not able to pass the toilet then she went to another doctor where he told that the anus was stitched.

Many times, the ambulance does not come on time to take pregnant women for delivery, as a result women deliver in auto rickshaws and at home.

Right to pee- At many places women does not have urinals to pee like the men have. In Market places where women go and sell their goods don't have toilets. Government should make toilets for women in rural areas also.

All government policies related to health on the Marginalised communities should be done in consultation with the Female sex workers, Trans women and Men Having Sex with Men.

Post-natal care like vaccinations does not reach the children of the communities very easily. At many places the camps are not placed for vaccinations.

Lack of budget in the health sector which prevents the community from having X ray, CD 4 testing machines and many time we get communities end up buying medicines and get the tests done from outside.

Community representatives should be placed as counsellors in Civil hospitals for ART, ICTC counselling.

No mandatory testing for HIV should be done. The indicators given at the Targeted Intervention are such that HIV testing is made compulsory and there is A line listing of the same. Mandatory testing is violation of one's basic human right but the TI programs call for Mandatory Testing.

Accessing social entitlements by the sex worker's communities should not be linked with other indicators and it should not be made mandatory. Social Entitlements are linked to Targeted Interventions Indicators and DAPCU's indicators. If a person is infected with HIV, then the social entitlements schemes are attached to them irrespective of their willingness to take the scheme. It's been made mandatory.

Children of Devadasi should be given caste certificate on the name of the mother and the lineage should be traced through the mother. This becomes important for the children to get into higher education.

Reservation for children of sex workers in the schools. Because when children of sex workers want to go for higher education like Engineering or any other professional courses, they had to bear a high fee structure. Reservations will encourage children to go for higher education. Transwomen and Men Having Sex with Men should be treated equal in education and in getting jobs.

The Supreme Court is recognising third gender by specifying it in forms, giving them ID proffs as third gender but on the other side they are saying Section 377 is illegal. So 377 should be decriminalised.

Lesbians should have a right to stay together and marry without any social stigma. In Solapur and in sangli there are cases where the women are doing sex work as a work but given a choice they would like to stay and marry a woman. For men it is easy to say that they have sex with men irrespective of having a wife, but when it comes to a woman, women cannot do this.

Laws should be different for trafficking and sex work and it should be different for minors also. Law should be made on trafficking in total and not only trafficking in sex work.

Sex works should be given the right to express in a rescue and raid process. Because in all cases of raid and rescue, the sex workers are not allowed to talk which results in considering them as victims of trafficking.

Sex workers who are picked up by the police in raid and rescue are not treated on a first hand basis for their blood pressure and Diabetics. And they are not even allowed to take their ART medicines. The police should first treat them and go on to other formalities. Many times, the women who are on ART miss their medicines which result in drug resistance.

Marriage and adoption rights should be given to trans persons and same sex couples.

Any kind of SRS and Hormonaltherapy should have proper guidelines.

A session on the rights of Female sex workers, MSM and Trans women should be included in the police training.

Police personnel who does not follow laws pertaining to MARPs should be punished. Like, if they do not listen to what sex workers have to say, putting false cases in the case of Tara, Chitoor, the police beat the sex workers very badly and then showed them as smugglers of red sandal wood.

Media persons should be punished for revealing identity of the sex workers. In many cases, they would come and take interviews and then shoe our faces in the media.

Government should allocate a particular time frame for social entitlements schemes. For getting Aadhaar card or ration card, the government should give time from 1 week to maximum of three months and within this period, any application for that scheme should be closed.

Government should provide unconditional educational support to children of Sex workers whose identity is disclosed. In the case of Anusha, where everyone knew about her because of her identity crisis and getting birth registration for her children.

State should design campaigns for removing stigma and discrimination towards MARPs like they did to remove stigma attached to HIV & AIDS.

Special schemes for voluntary sex workers who are old and deprived.

Consent of the women should be allowed to operate on herself when spouse is not cooperating- Meena Ashok Sudale, 27 years from Yelavi, Sangli was suffering from Menstrual pain in her stomach, when she consulted the doctor, the doctor diagnosed that her uterus has come down and it required an operation to remove it. So, she went with all necessary documents to the Government Civil Hospital for operation. After looking into the case history, the doctor got Meena ready for the operation and just before the operation, Meena was given a consent form to get it signed by her husband. Meena said, that she herself will sign or her mother in law will sign because her husband is not there and he does not bother to look after her. But the doctor denied to operate her without the signature of her husband. Then Meena had to rely on a private hospital for her operation by spending Rs 21,000/-. She was forced to spend Rs 21,000 just because her signature was not accepted for consent.