



LEGALISING PROSTITUTION IN INDIA

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PROSTITUTION IN INDIA

Everything which is in existence today has a background of its own, and so does prostitution in India. India which is claimed to be a standout amongst the most ancient civilizations of the world exhibits a broad record of the existence and development of prostitution. Though prostitution might have changed over time from ancient and medieval to modern India but it still remains as an unpleasant truth before the society. It is a reality which has existed since ages and dispensing it away is practically not possible.

By prostitution one generally refers to commercial sex, the business or practice of exchange of sexual activity in return for money or some other consideration as settled between the parties. The legality of prostitution is different in different countries, it being legal in some and illegal in others. Some of the countries which have legalized prostitution are Canada, Germany, Belgium, New Zealand, Austria, Australia, Brazil, Denmark, France, etc. The law in India is rather ambiguous and not clear as to the legality of prostitution.

Prostitution is practiced widely in India, it being a billion dollar industry with millions of prostitutes in different areas of the country. These areas are often referred to as the red light areas. The prominent red light areas in India are Sonagachi Kolkata, with

the title of being Asia's largest red light area, Kamathipura Mumbai, Budhwar Peth Pune, Meerjung Allahabad, G.B road Delhi, Chaturbhujsthan Muzaffarpur, Itwari Nagpur and Shivdaspur Varanasi. In India prostitution is considered to be a wellspring of degradation to the society and is often condemned. The people of India and furthermore the government turn a blind eye towards prostitution pretending it does not exist in the society and accordingly emerges no compelling reason to address the same.

The people adopt a very discriminatory approach towards the sex workers, looking down upon them and not the buyers of such services. The buyers are the ones who contend for criminalization of prostitution referring it to be filthy and amoral in the daylight and enjoy such services in the moonlight. Human rights infringement is widespread throughout India, and the same can likewise be found in the lives sex workers. Prostitution isn't dealt with as work, yet an indecent act undermining the general public. This results in the denial of essential rights to both sex workers and their families. Women engaged in prostitution cannot access basic healthcare services and are made subject to abuse, violence, harassment and exploitation not only by the pimps and brothel runners but also by police and government authorities.

Navratre, a nine day celebration dedicated to Maa Durga, is one the most imperative celebration in India. Amid the celebration, the people worship the deity of Maa Durga, made of eighteen soils, taken from eighteen different places, one of which is from a prostitute's doorstep. The incongruity lies here that the mud from a prostitute's



doorstep is called 'punyamati', which means the pure soil, yet they themselves are called evil.

IS PROSTITUTION A CHOICE?

Women do not voluntarily enter into this profession; it is the circumstances that force them. There are very few, precisely negligible percentage of these women who willingly take up this profession. Many thousands of young girls who are minors and women are abducted, lured and sold into forced prostitution. Women are constrained into prostitution by poverty, abandonment, sexual and verbal abuse, lack of education, gender discrimination, etc.

Majority of the girls are forced into it before they have attained the age of majority, with most of them having been sexually and physically abused as children. Some in the state of utter poverty see it as a means of funds for their own and family's survival. A lady who is unable to get any beneficial work and who has no supporter should either starve to death or gain her livelihood through prostitution. Some are the victims of rape, they are stigmatized by the society and when not accepted by anyone then left with no option other than turning to prostitution to survive. Thousands of girls are abducted at a tender age by the traffickers and forced into selling sex. Some are simply sold by their families and husbands, and the children of these prostitutes end up entering prostitution with no choice available to them.

PLIGHT OF THE PROSTITUTES

HEALTHCARE- The health of the sex workers and their children suffer the most owing to the marginalization and stigma that

exists in the society. Lack of education, obliviousness and dread of abuse by medical establishments make it troublesome for ladies to get to healthcare services along these lines they are unlikely to look for either preventive or curative care, bringing about lower levels of wellbeing. The life expectancy of these women is very low.

NO SECURITY- Individuals in sex work are at a higher risk of violence, as well as less inclined to get protection from the police as most of the time they themselves are exceptionally culprits of this brutality against sex workers. Since society regards women in sex work to be amoral, they are assumed guilty therefore "deserving" of any violence against them. There have been numerous instances when the sex workers manage to escape the confinements and seek protection from the police but the police officials in turn sexually assault these women, rape them and perpetrate violence against them. Such violence is the consequence of the discrimination and vulnerability of these women.

STIGMATIZATION- Women are denied rights which are ordinarily enjoyed by all the citizens; they are treated with disrespect and are ostracized from the rest of the society. The society looks upon them as criminals charged with the offence of carrying out immoral acts which infect the society.

HIV/AIDS- Sex workers have been considered outcasts by the society infecting with their unethical and compromised morals and now as the carriers of HIV. Sex workers are at a greater risk of HIV as compared to the general population owing to



the economic vulnerability, inability to insist on consistent condom use, violence and marginalization. They even face barriers in accessing the HIV prevention programmes due to stigmatization.

DENAIL OF LABOUR RIGHTS- A safe working environment through standard labour protection laws continue to be denied to the sex workers as they do not fall within the ambit of labour laws. This includes legal redressal to grievances at work, health and safety regulations and other benefits.

MISERABLE LIVING CONDITION- The women are trapped in shady brothels, live under inhuman conditions in an extreme state of confinement where they do not even see the rising sun or feel the fresh air. They are denied basic necessities like proper food, sanitation, education, rights which are associated with every citizen like the right to vote, have an identity, equality, equal protection under law, dignity etc. Anyone who tries to escape these prisons are forced back and tortured even more severally. They not only get infected with STDs but also psychological disorders, cervical cancer, traumatic brain injury etc.

LAWS GOVERNING PROSTITUTION IN INDIA

The Immoral Traffic Prevention Act 1986 which was an amendment to the Immoral Traffic Suppression Act 1956 governs prostitution in India. As per the law the prostitutes can carry out their trade in private but not in open. The prostitutes can be arrested for soliciting their services or seducing others. Pimping, pandering, owning and running a brothel and kerb crawling which are intrinsic to this profession are illegal. Any person who consorts with prostitutes within 200 yards of

a designated area and a person who indulges in any such activity with someone who is under 18 years of age shall be punished. The law in India is vague and ambiguous when it comes to dealing with prostitution. This leaves the prostitutes at the whims of the police and other officials who bring charges against them. Different sections are used to bring charges against sex workers of public nuisance and public indecency under the Indian Penal Code 1860.

NEED TO LEGALIZE PROSTITUTION PROTECT RIGHTS - Sex workers are also human beings and entitled to all the human rights of which they are deprived by the society. Apart from being censured and judged by the people they are always viewed as culprits, criminals and offenders of public nuisance. They are deprived of the right to dignity on unrealistic moral grounds. The rights enshrined in the constitution should be made available to them without discriminating them on the grounds of the profession they are into.

CURB FORCED PROSTITUTION- Millions of children are forced into this industry; legalizing prostitution will regulate the industry and bring down the exploitation of the minors to a great extent. Regulating it through laws would ensure that those who voluntarily take up this trade would carry on the trade with proper licenses without facing any harassment by the society and the officials. At the same time regulation would ensure that no one forced into this trade thus protecting their rights and confirming their safety.

SAFE WORKING CONDITIONS- Proper regulations would ensure healthy and safer



working conditions. Regular medical checkups of the sex workers would reduce the risk of transmitting of sexually transmitted diseases. The codified statute will provide proper guidelines as the requirements of hygiene, cleanliness, working conditions and health of the workers which will be beneficial for both the parties.

REMOVAL OF PIMPS- Removal of pimps and middlemen will be brought into effect by proper licensing of the sex workers. This would end the consistent harassment and the exploitation of the sex workers. The workers will get due wages for the service they would provide.

REVENUE GENERATION- It is a known fact that the prostitution industry is a billion dollar industry in India and regulating it would enable government to impose taxes on the proceeds. This would add to the revenue of the government and would also provide funds which could be effectively utilized for the welfare of these prostitutes. The workers will also be enabled to demand minimum wages or proper wages for their work.

LEGAL FORUM- The regulation of the industry by law would provide the sex workers with a legal forum to voice their grievances. They will be entitled to approach the court under the statute and get their rights enforced. This will also prevent the atrocities committed by the police officials on these workers because of the ambiguity that the present law provides.

REGULATE INDUSTRY- The basic purpose of any law is to regulate human

conduct. When prostitution has existed in the Indian society since time immemorial and has continued even today then why not regulate the practice? The implementation of laws in the required manner would do away with the wrong practices associated with this trade and ensure safe and healthy practices.

EXPOSE REAL CRIMINALS- The traffickers manage to carry on their business because the sex industry works clandestinely, legalizing it would help in breaking the trafficking groups. Prostitutes would feel secure to approach police, coming out of the shadows as their act will not be illegitimate. The police will also be able to concentrate their resources and time on the real criminals.

ACCEPTANCE IN SOCIETY- The sex workers face discrimination primarily due to the attitude adopted by the society, legalizing it would bring about at least some change in the mindset of the people. It is the need of the hour that prostitution should be accepted as just another profession. The people should have the honesty to accept that the services of these prostitutes are needed by many and denying this would only worsen the situation.

FATE OF THEIR CHILDREN- The children of these prostitutes face discrimination, stigma and marginalization. The female children are labeled as prostitute right from their childhood. They are denied education and other rights and verbally abused for being the offspring of prostitutes. They are left with no choice but to end up entering into this trade.

CONCLUSION



It has become imperative today to regulate the prostitution industry, denying or refusing to acknowledge its pervasiveness will do no good instead it would exacerbate the conditions prevailing. The stealthy nature of prostitution assists the exploitation of the vulnerable sex workers. Legalizing it would ensure benefits to all the parties involved in the trade. Most importantly the rights of the sex workers will be protected and they would be allowed to carry on an ordinary life like any other normal person.

