

Legalization of Prostitution in India-A Question on Indian Society

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Abstract: Prostitution in India is as old as Indian civilization. It is not wrong to say that prostitution is a part of Indian culture from the beginning of civilization. In spite of the oldest profession of the world, Prostitution is regarded as the horrific in the entire state. After long century this profession had still down trodden and the situation of the women is becoming miserable day by day. Not only this prostitution also increased the other crimes like Human Trafficking, kidnapping, rape, drug Trafficking and many more. India has never adopted this oldest profession as their legal profession may because they never create a vote bank or this is highly against the ethical and cultural aspects of India. In this paper the concept of prostitution, history and arguments against and for the legalisation of prostitution are discussed with some suggestion and recommendation. Whatever may be the reason but there is a need of hour for the government to think in this regard.

Keywords: Prostitution, India, Indian Society, Legalization

I. INTRODUCTION

Today's India is one of the developed worlds in the globe but one thing which doesn't change is the prostitution. It is not wrong to say that it is an age old concept and no one say the exact date when it came into existence. It is also correct to say that now it's a part of India's culture and morals but still this profession has not get any recognition. No, one says that it's a legal or illegal profession. The current laws which deal with the prostitution in India are Immoral Trafficking and prevention act 1986. The first law in this regard is Immoral trafficking (suppression) (SITA) act 1956. Indian Law is very much fuzzy and uncertain, when it comes to the prostitution law. Prostitution is not punishable under the law but the activities such as running brothel homes, act as pimps or any other act which runs in public. In short we can say that running prostitution in some public place is offence. The most horrifying part of this profession is that if any girls get trapped in this industry then society as well as family will not accept that girl and she left with no option other than to accept the situation under the social pressure. There are 2 million sex workers presently working in India, unofficial number is expected to be much higher than this. As there is no proper law, the sex workers are exploited by the pimps and the owners because they have nowhere to go. The most ironical thing in this regard is that the word prostitution is defined no were in the Indian Law. In the simple term we can say that it is a service industry which provides a pleasure of sex in return of money basically it may be in kind also.

In the prostitution business the most girls are trafficked from small cities to Mumbai, Kolkata, and Delhi basically. The biggest red light area in India is in Mumbai and Kolkata, half of the women are forced to work there and compromise with their social condition. The most iconic thing is that they even not get proper food and medical facility. They forced to live in unhygienic condition and many times they served more customers in a day then what their body allowed. There are many bad consequences which they are need to pay like Aids, Breast cancer, Sexually Transmitted disease, social isolation where few of them. Before going for a debate that why we not eradicate this industry or why we not legalise this industry we should know the mind setup of the society or to a person who is buying a sex. One thing which needs to correct here is that it is not only the men who buys sex but also women who buys sex because there is also the concept of men prostitution and there are women in this industry that pays for the

women. The question needs to find now that why person buy sex, it is not incorrect to say here that it became a necessary evil for the society. The question that why women sell their body should need to be answered in real hurry and if it is due to some social causes then the agencies should really need to work fast on this social cause.

The one thing which is very much clear in this context is that we should need a strong argument to criminalize it or legalised it. Here one thing is most important to mention that the concept of sex tourism is also very much prevalent in whole globe and it is not strange to say that India is also taking actively part in this concept. The place in India like Goa is flourished as sex tourism in India. In the entire globe places like Cuba, Venezuela, Caribbean, Costa Rica, Brazil, Spain, Thailand, Indonesia and Netherlands, Nevada are famous spots for sex tourism. The streets are filled with young girls and boys, ready to seduce and be taken by a potential buyer of their services. We should understand here that the persons who are against this profession in their country are the persons who enjoy this service in another country.

Professional prostitution are available in every corner of the globe whether it is recognised by the local government or not and we can also know that it leads to many crime like Human trafficking, drug trafficking etc. In India this industry is active and taking active part in many sectors of India like politics and bureaucracy, the last resort to solve this problem is left to judiciary. The only question which comes to mind is that when our society will get enough maturity to deal and take this matter as a serious issue and discuss it on open bench debate. There is no doubt that India is a Hippocratic country, as we can see the example of sunny leone, our Indian Society still known her as porn star and doesn't accept her completely. Now, this is a need for hour that India should thing out of the basket, stands and should change the things.

II. HISTORY OF THE PROSTITUTION

The History of Prostitution is as old as God in India. It was mentioned in the Vedas that there were two dancers in the court of Indira (king of God) named as Uravasi and Menaka. They are like jewel in the crown. It was also mentioned that whenever his crown is in danger he used them as a weapon and send them to their enemies to seduce them with their dance and beauty. Not just the Vedas but also the Bible has the mention of prostitute, where Jesus Christ welcomes a woman in his kingdom knowing that she is a prostitute. We should not forget that India is a country which talks

about sex in open society for the first time in the book Kamashutra. It deals with the sex positions, requirement of sex and many more. The Chanakya in his Chanakya Arthashastra, also talked about prostitution and prostitute. He support it as a Profession and we can also say that its like blue print for this profession because he defines the prostitute in his own concept, suggested the places for this profession, tax implemented on them and many more. He called this profession as an organised sector profession and nothing wrong in working as a prostitute.

From the time of Indira to Guptas to Chanakya to Aurangzeb nothing has been changed, the women are still a part of the court room. They used for the entertainment purpose like dance, bath and sex. However, they hold many important positions in many court yard but the situations are still same. Women's were used for the pleasure purposes for the kings. They were given to other kings in the name of friendship and even they were carried with soldiers in the warfare for the soldiers to do sex and release their anxiety. So, that they can give their best in the Warfield.

The most popular festival of India is Navaratra and this is a festival when people celebrated the coming of Lord Durga in nine different Avatars and for nine days. The statue of Lord Durga is made from soil which is taken from 18 different places and the one among the 18 place is the house of prostitute which is considered as the pure soil. The irony of India is that the Statute of God is still made from the soil of prostitute doors and the women who are prostitute are considered as not more than garbage.

If we talk about our history then the best example is Sculptures of Ajanta and Ellora in which the Sex positions were given. It shows that our ancestors were more open minded in discussing these things and sex is an art more than an inviolable in those days. We are heading for a modernization or orthodoxy- Now the time has come that the general people of India should think and the irony of India is that the country which taught Sex to whole world is even not ready to talk about sex and the prostitute. Why because they are not vote bank or they are outcasts by there who family. Now, the time has come that people should think about them otherwise the concept of equality is just a myth for India.

III. LAWS GOVERNING PROSTITUTION IN INDIA

- **Immoral Traffic (Prevention) Act – ITPA**-The Immoral Traffic (Prevention) Act was passed in 1956 and is an amendment of the SITA. As per this law prostitutes will be arrested for soliciting their services or seducing others. In the same vein, call girls are not allowed to make their phone numbers public. They can be imprisoned for a maximum of 6 months along with financial penalties if they are caught doing so. Clients who consort with prostitutes or indulge in such activities within 200 yards of a designated area can be imprisoned for a maximum of 3 months and they need to pay fines for the same as well. In case, someone indulges in such activities with someone under 18 years old, he or she can be jailed between 7-10 years. Pimps and similar people who live from the income made by a prostitute are guilty as well. For that matter, if an adult man lives with a prostitute he can be regarded as guilty. If he cannot prove himself to be innocent, he can face imprisonment between 2-4 years.
- **Indian Penal Code 1860- Section-372 and 373 of the IPC** restricts the prostitution and similar activity for the minor.

The most pathetic situation is that when more than 2 million women are working as a prostitute in this industry and every year there are 10% increment in this regard and they were forced to work as a prostitute and even many of them has forced to live a miserable life's and still we don't have laws for them because society

considered not more than a garbage. Society considered as them as against their ethics and culture. The laws don't protect their legal rights but they criminalise the act of prostitution. However Prostitution is legal in India on the personal basis not in Public.

IV. ARGUMENTS IN FAVOUR OF LEGALIZATION OF PROSTITUTION IN INDIA

India is a country where Gang Rape, Domestic Violence and other crimes against women are common thing to the society and when the question arises for women who are engaged in prostitution the situations are more miserable. The questions here arise that why not India should stand with those countries who established this as a real or legal profession. It is not well proven fact that the situation will change but may be it change.

The conditions of women who are engaged in this profession are becoming wretched day by day. They are forced to live like animal and even the larger part of their income are taken by the pimps. They are suffering from much communicable or sexual disease like STDs and even they are not allowed to walk outside their four walls and even not to talk with the strangers.

In my view at least the legalisation of prostitution will solve the problem of Human Trafficking to some extent because it will give freedom to walk in and out to the women and the person who buys sex can also feel safe to these brothel homes which will give freedom to many aspects like the society at least start talking to them in open air and thinking about them. The legalisation will also lead to increase of health conditions to these prostitutes. No doubt legalisation will increase the working condition and brothel homes became safer home to them. The women who are commercial sex workers can do easily their business and they can also take an account to the amount which is taken by their pimps. We can also say that it can also reduce to violence.

Due to the legalisation of the prostitution, when the prostitution as a profession came under the main team industry then obviously there is a tax implement system will be there for this industry which will lead to the profit of Indian revenues. This will also lead to acceptance of prostitutes in the Indian society and upliftment of their quality of life. They will come to the main stream of the society which will improve their education, medical facility and many more.

The other most important thing benefit for De-criminalisation is that the prostitutes were not exploited in the hands of the authorities. The liability also come to these authorities because they also take their income forcefully and exploited them physically also sometime. It will also give rights to prostitute to approach to proper authority in case of exploitation.

The prostitution will be legalised because it will separate the Legal prostitution and illegal prostitution and it will give the number of persons engaged in this industry. The future of children to these prostitutes will also safe and the human trafficking for the purpose of sex will decreased too few extents at least.

It is beyond any doubt that the prostitution is running as billion dollar industry in India. These industries are very well carried out in almost every cities of India. In the above discussion we can conclude that the criminalization of prostitution is never a solution for the Indian society. It is regulated and recognised as a form of work. In my view the prostitution has not only given the legal profession status but also required the free education guaranteed by the Government like as it is given in Fundamental Rights under Article-21A. More important legalisation of prostitution will bring these persons to main stream and give those rights or chance to live their normal lives. But of course it will only happen when government legalise the rights of sex workers, which will give them protection to their work and dignity.

V. ARGUMENTS AGAINST THE LEGALIZATION OF PROSTITUTION IN INDIA

Prostitution is always a blistering topic for the Indian democracy, many scholars are in the favour of legalizing many are against the legalization but the subject matter is still the same. Whether it's should be legalise or not. However, there is no evidence that the situation will change for the prostitutes and their children but there is one thing which will certainly happens is that there will be an increment in government and sex industry revenues. It is a big myth that overnight the things will change after legalizing the prostitution. The only change will happen is that the illegal act became legal and the pimps will turn into businessman. The real change will come when Government will think out of the box and actually think about increasing the quality of life to the prostitutes and their children. If Government will legalise prostitution then the enforcement mechanism should become more active because the risk of exploitations and other sexual diseases will increase.

Actually, if we say then it's a reward to the pimps, traffickers and sex industry. Everything will do under the legal banner of prostitution and it becomes the easy making market for both pimps and young ladies. The countries like were moral values and morality takes prior place then the laws. How can we image a situation where flesh trade is everywhere and supported by Government? Besides the morality ground it also increased the Human trafficking and it helped in expanding sex industry. Not only this due to legalization of prostitution other type of exploitation like dancing, pornography, phone sex, pip shows etc will expand and increased in much more profitable way then it was before. If we talk about countries like Malaysia, Thailand, Singapore, Denmark, and Sweden the sex industry is now became the integral part of the tourism. It will also increase the street sex, and absolutely there will be problem relating to the health issues of the prostitute.

One of the bad faces of prostitution is the child prostitution. It will also increase the child prostitution. In courtiers like India Where corruption is highly observed by the Indian Bureaucrats, it will very difficult to stop child prostitution in countries like India and this child prostitution is never accepted and especially in Countries like India. The countries like Australia were Prostitution is legalised in one state and criminalised in another state. The state Victoria in Australia were it is decriminalised. It is highly observed that there is increase in Child prostitution.

Legalization of the prostitution will increase the demand for sex and it will promote the male customer to buy female for sex in a most promising social and legal setting. It gives an open message to the young men and boys that the women are the buying commodities and anyone can buy them and do whatever they want to do. They will take sex as a harmless game. It will definably degrade the social values of women and as i already discussed, no doubt it will degrade the women health.

The Government should think of their health, children and future rather than depending on the revenues of the prostitute industry by legalising it. It is very much needed to take them in the main stream of the society by creating opportunity to them because no one wants to be a prostitute. It's a big question were this industry should legalise or not. However, the discussions are on and the question is still pending.

VI. PROSTITUTES AND HUMAN RIGHT

The discussion for the establishing prostitution as a Human Right is not new; the scholars are always busy in arguing that why can't be prostitution as a profession like other. However, *Article 23 of universal declaration of Human Rights says that* 'Everyone has the right to work, to free choice of employment, to just and

favorable conditions of work and to protection against unemployment'. So, the prsotituoon is also just a service industry like others however it is illegal in most part of the globe but it can be included as the basic Human Rights. Any persons have full rights and control over the body of his own. He can use his body in a manner he likes.

In the book Paid For, a compelling analysis of author Rachel Moran's experience in the sex trade, she describes three types of men who patronize prostitution: those who assume the women they buy have no human feelings; those who are conscious of a woman's humanity but choose to ignore it; and those who derive sexual pleasure from reducing the humanity of women they buy. Is Amnesty really going to defend the rights of such men to buy women?

If it would not be a Human Right, then the question arises that the women who is trafficked and forced in the sex industry then what we called that women as a sex worker or trafficked women. The government should really think about providing them as a Human Right or basic right in their profession. We have at all times committed to address trafficking. Trafficking is an abhorrent abuse of human rights and must be criminalized as a matter of international law. We do not consider trafficked women who are forced to sell sex to be a 'sex worker'. She is a trafficked woman and deserves protection as such.

You cannot enter this debate without recognising that it is often women and men who live on the outskirts of society who are forced into sex work. It may be their only way to earn a living. Decriminalizing their work does not mean condoning a world which leads them onto the streets. We want them to enjoy all of their human rights and we will continue to fight for a world where that is possible.

VII. CONCLUSION AND RECOMMENDATION

There are many reasons for prostitution in India but there are few important factors which leads to the prostitution like Lack of education, Poverty, family background, Personal tragedies which includes promises for the job in big city by agents. According to my study on prostitution till now, one most unusual reason which came up is that in small cities many girls are trafficked by men who take them to big cities like Mumbai and Kolkata in name of love for the marriage and then sell them to the brothel houses. These practises are very much common in small cities of West Bengal, Assam, Tripura and even in Bangladesh and Nepal. Government should take up the matter with immense gratitude and solve the prostitution with other best alternative and don't see the prostitution as an economic benefit and no doubt the laws in India related to prostitution need to be revived and the enforcement agencies need to implement it strongly. No doubt India has also emerged as the country with sex tourism, the states like Goa is the best example for this but one thing we can't forget that in the advent of tourism we can't promote prostitution. One of the major consent is that the women who are in prostitution, what she will do when she come at the age of 45 or 50, the government should make a pension schemes or the gratitude schemes. So that they can secure their old age, the Government should think for their home and Health schemes also in a rightful manner. However there is no such policy till now from Government. In some state Government even denied that they have prostitution in their area. If Government is thinking of legalising it then it should be like a proper economic sector and everything will be defined and if not the Government should discourage the prostitution by making harsh laws.

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