

ILE JUDICIAL AND LEGAL REVIEW



VOLUME 1 AND ISSUE 1 OF 2023
INSTITUTE OF LEGAL EDUCATION



ILE Judicial and Legal Review

(Free Publication and Open Access Journal)

Journal's Home Page – <https://jlr.iledu.in/>

Journal's Editorial Page – <https://jlr.iledu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://jlr.iledu.in/category/volume-1-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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LEGALIZATION OF PROSTITUTION IN INDIA

Author - PARAS CHUGH, STUDENT AT RNB GLOBAL UNIVERSITY, BIKANER

Best Citation - PARAS CHUGH, LEGALIZATION OF PROSTITUTION IN INDIA, *ILE JUDICIAL AND LEGAL REVIEW*, 1 (1) of 2023, Pg. 01-05, ISBN - 978-81-961120-0-4.

ABSTRACT

Prostitution is as old as civilisation and has been a part of Indian society since the concept of marriage was introduced. Prostitution has recently become associated with violence, discrimination, and exploitation. Prostitution is frequently regarded as a taboo in Indian society, and the necessary attention has not been devoted to its regulation. This article investigates the relationship between prostitution and exploitation and violence, as well as the potential impacts of legalizing and regulating prostitution on exploitation and attack on sex workers. Prostitution has been legalized through numerous acts passed by post- and pre-independence administrations, as well as through books and essays. While these studies look at a broader part of the problem, this study report looks at two very specific aspects. Prostitution, whether criminalized or not, is here to stay. As a result, it is preferable to address the elephant in the room and maybe find solutions to the challenges that women and children encounter in Prostitution.

Keywords- Regulation, Exploitation, Violence, Legalization and Sex worker

I. INTRODUCTION

Prostitution is non-selective sex work performed for money or other material assets. Females are not the only ones who work in this field in the twenty-first century. Males and transgender people are also involved in prostitution in smaller numbers than women. Prostitution is mentioned in the Rig Veda in the setting of India. Tawaifs served the elite in dance, music, and other arts in medieval India. This was the

beginning of prostitution, which later evolved into sexual favors for ordinary people. This is known as prostitution in the modern period. The most important question regarding prostitution is whether its legalization is for the better or for the worse.

Prostitution is currently allowed in Austria, various states in Australia, New Zealand, Canada, Belgium, and Brazil. Prostitution is not expressly outlawed nor regulated in India. The Immoral Trade (Prevention) Act, 1956 (ITPA), colloquially known as the SITA legislation, rendered associated work such as owning or operating in a brothel, pimping, and organized sex work illegal (hereafter referred to as the same). Prostitution is referred to as 'sexual abuse' in this act. The act, however, does not recognize men who have entered the prostitute business.

Because of the shame associated with prostitution, prostitutes frequently seek medical attention. This includes undesired pregnancies, HIV/AIDS, and other sexually transmitted infections (STIs) among prostitutes. Hence, regulating prostitution and brothels will aid in the reduction of this disease.

II. STATEMENT OF THE PROBLEM

The effects of street and off-street prostitution on the surrounding community are vastly different. Indoor prostitution has little, if any, detrimental environmental impact and, if unobtrusive, has little public knowledge. Street prostitution, on the other hand, is associated with a slew of issues, such as disorderly behaviour, sex in public places, the disposal of condoms and syringes in public locations (public health concerns), customer harassment of women on the streets, and increased noise

and traffic. This result in Low self-esteem of the commercial Sex Workers. But at the same time being the bread winner of the family these sex workers have Satisfaction in their Life. Though they choose a profession which is marginalized in our society, they feel satisfied as they were able to face the basic needs of their day-to-day life along with their family members.

III. SIGNIFICANCE OF THE PROBLEM

Street prostitution, on the other hand, is associated with a slew of issues, such as disorderly behaviour, sex in public places, the disposal of condoms and syringes in public locations (public health concerns), customer harassment of women on the streets, and increased noise. These sex workers have Children and they are much concerned about their future. This made them to fall in this profession, though society may look them down upon, they feel that this is the only profession for them to earn quickly and take care of their family.

IV. SCOPE OF THE STUDY

The present study was conducted among the Sex workers who registered their name in ICWO (Indian Community Welfare Organization) an NGO which works for Female Sex workers at Chennai. The present study focuses on to explore the socio- demographic details of the Sex Workers, the study also focuses on the perceived Self-esteem level and also their Life satisfaction. This study's respondents are all street sex workers. Commercial Female Sex Worker is referred to wherever sex worker or responders are addressed.

V. REVIEW OF LITERATURE

The Puducherry-based Society for Development Research and Training (SfDRT) performed a nine-month survey among 250 sex workers. The majority of the commercial sex workers had children and are anxious about their future. Houses that can meet their children's educational and nutritional needs are desperately needed. In his study, Woodward et al. (2004) discovered that half of call girls and brothel workers believed their work was a "main

source of satisfaction" in their lives, and 7 out of 10 indicated they would "certainly choose" this work if they could do it all over again. According to Scott and Weitzer (2000), street prostitution is associated with a slew of issues, including disorderly behaviour, sex in public places, the discarding of condoms and syringes in public areas (public health hazards), customer harassment of women on the streets, increased noise and traffic, and loss of business to merchants.

VI. PROSTITUTION: EXPLOITATION AND VIOLENCE

Women and children are exploited and coerced into prostitution in this way. Prostitution is widely regarded as one of the world's oldest vocations. Females are not the only ones who work in this field in the twenty-first century. Males and transgender people are also involved in prostitution in smaller numbers than women. Prostitution can be of various forms, including street prostitution¹, escort prostitution² and brothels³. Prostitution has a distinct legal standing in each country. Prostitution is currently legal and regulated in Austria, various states in Australia, New Zealand, Canada, Belgium, and Brazil. Prostitution is prohibited in the majority of African countries, including Brazil, Argentina, Italy, Spain, the United Kingdom, Singapore, and Sri Lanka, to name a few. Prostitution is allowed in several nations, although it is not regulated.

Prostitution can be traced back to the Ancient Near East Civilizations⁴, where there are depictions of it in temples. Prostitution first appeared in Ancient India, with the introduction of illicit love affairs or extra marital affairs. The Rig Veda suggests the existence of prostitution with the mention of the "Sadharani"⁵, which is equivalent to the term "prostitute"⁶. Prostitution

¹ Street Prostitution is a form of sex work wherein a sex worker solicits customers from a street.

² An escort is someone who offers companionship that may or may not be in the form of sex.

³ A brothel is a place where people may engage in sexual activities with prostitutes, usually owned by third parties.

⁴ Ancient Near East is the modern Middle East, which was earlier the home for many civilizations such as Mesopotamia, Babylonia, etc.

⁵ Sadharani is the term for a courtesan, who was not possessed by a man as was the trend in Ancient India.

⁶ *Supra*, note 1.

developed alongside the institution of marriage. Even during the Mohammedan period, dancing girls, who were occasionally prostitutes, were appointed to the Sultans' Courts. These girls were also held by the Sultans for the enjoyment of army members. "Tawaifs" were the name given to these women. During the British occupation, brothels were built for the military. The British Raj issued the Cantonment Act of 1864 to regulate prostitution, which is considered one of the first prostitution legislations in India.

Many people believe that prostitution is a kind of female exploitation. This is correct, at least in the case of India. Prostitution is a subjugating vocation for women in India, where women are generally forced into it, either passively or aggressively. This is because they were trafficked or sold as child prostitutes by their own parents, or they chose prostitution as a vocation to earn a living (as a necessity). Women and children are exploited and coerced into prostitution in this way. Under the guise of marriage or work possibilities, vulnerable or underprivileged women are targeted and coerced into prostitution. They are frequently forced into the profession by family members. After being trafficked in this manner, women are subjected to the most heinous forms of torture by their clients, as evidenced by several interviews of Indian prostitutes conducted by various researchers and social workers. The clients, who are largely men, refuse to use condoms, which increases the prevalence of HIV/AIDS. They pay off the brothel owners in order to continue exploiting the ladies.

VII. LEGAL ASPECTS OF PROSTITUTION IN INDIA

In India prostitution is partially legal. Prostitutes can work privately, but solicitation and organized prostitution, such as brothel running, are prohibited. Prostitution can be done outside of public places. Furthermore, only female prostitution is legal in India.

The rate of prostitution is difficult to determine since it is a shadowy profession, and prostitution facilities, such as brothels, are

rackets. Although though brothels are technically illegal, the government makes little effort to seek them down and shut them down. Yet, there are a few laws concerning prostitution.

The Immoral Traffic Prohibition Act of 1956 is the main piece of law enacted in India in response to prostitution. Section 3 of the Statute⁷ imposes imprisonment for two to three years with fine for keeping a brothel or allowing premises to be used as brothels. Section 5⁸ imposes three to seven years of imprisonment with fine for procuring a person for the purpose of prostitution without their consent. Section 7 of the Act makes prostitution in or near a public place illegal. The act, however, is silent on child trafficking and the abuse and cruelty inflicted on women by clients. In *Smt. Afjal vs. State of Uttar Pradesh*, the accused ran a brothel and imprisoned minor girls for prostitution. Under the requirements of the legislation, the accused was found guilty, and the minor girls were rescued.

The Indian Criminal Code has prostitution laws as well. The IPC Section 366 Clause (A) discusses the procurement of a minor girl for illegal sexual intercourse and imposes penalty for it. Clause (B) of the same article discusses the importation of a female from another nation for the purpose of prostitution. In the case of *Fateh Chand v. State of Haryana*⁹, Women and children are exploited and coerced into prostitution in this way. Sections 372¹⁰ and 373¹¹ of the IPC prohibit selling or disposing of a minor girl with the knowledge that she will be entrapped into prostitution, as well as buying or hiring a minor girl to compel her into prostitution.

Again, the law is silent on prosecuting clients or brothel owners who inflict violent harm on a prostitute. It also does not require the use of condoms and does not include provisions for the healthcare of sex workers, resulting in the

⁷ Section 3, The Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament, 1956 (India).

⁸ §. 5, Immoral Traffic Prevention Act, 1956.

⁹ *Fateh Chand v. State of Haryana*, (1977) 2 SCC 670.

¹⁰ §. 372, The Indian Penal Code.

¹¹ §. 373, The Indian Penal Code.

spread of HIV/AIDS and pregnancy, producing a population boom.

VIII. EFFECT OF LEGALIZATION OF PROSTITUTION ON EXPLOITATION AND VIOLENCE

The issue of whether or not prostitution should be legalized has been debated on moral, medicinal, and legal grounds. As previously established, individual and private prostitution is allowed in India. Prostitution must be regulated, with government oversight of brothels and related operations. Despite laws prohibiting the development of brothels and pimping, they nonetheless exist and exploit women. Because the brothel owners bribe the cops, police raids are not always beneficial. This is clearly the outcome of supply and demand. If the government takes over such brothels, supply and demand will be fulfilled, and intermediaries will be eliminated. Apart from him, prostitutes must be allowed to practice their trade discreetly, allowing them to earn a living while remaining out of the public spotlight. Governance of prostitution will be easier once it is decriminalized. This will contribute to the reduction of forced prostitution of women and children. The current system makes it difficult to determine whether the women have given their consent to engage in prostitution. Putting prostitution under legal scrutiny will make it easier to police illegal conduct while also providing assistance to victims. Little girls can be kept out of prostitution by regulating the industry, and pedophilia can be reduced.

Sexual assault and violence towards prostitutes by the clients happen with the permission of the brothel owners who are given more money to allow the clients to perform violent acts towards the prostitutes. Prostitutes have virtually no reprieve or escape from this type of brutality. Replacing these brutal middlemen with government oversight will go a long way toward reducing atrocities against women committed in the name of prostitution.

Of course, these steps will not totally eliminate female exploitation. Regulation also entails active police engagement in busting any

unlawful rackets that may still persist. The government must take steps to prevent police corruption. If prostitution is regulated in this manner, it has the potential to drastically reduce societal evils like exploitation and violence in the sex business.

IX. CONCLUSION

Prostitution is one job that society regards as shameful, and prostitutes are regarded as filthy and shameless persons. Prostitution regulations in India are insufficient and lack a coherent approach. As a result, control of such operations is absolutely necessary. Sex workers are legally marginalized by a system which has in essence criminalized prostitution. People who participate in sex work are frequently ensnared in a debt trap. Although additional study on street sex workers is needed, the papers examined here show that they experience physical and psychological abuse. Because sex work will continue to exist even if tight laws are imposed, it is preferable to establish rules rather than outright abolish the conduct. Prostitution is a career that can involve violence and exploitation in some circumstances. Nonetheless, for certain people, it may be useful in running a family. Also, people must be educated about women's issues so that they do not perpetrate such horrible atrocities against them, which is the main source of concern. Given these considerations, the researcher believes that prostitution should be legalized, with a regulatory authority overseeing the practice. He concludes that legalizing and regulating prostitution protects the protection of sex workers and children, as well as their rights. There is minimal attention paid to their specialized health requirements, particularly their sexual health and physical and mental traumas caused by violence.

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4. Street Prostitution is a form of sex work wherein a sex worker solicits customers from a street.
5. An escort is someone who provides company that may or may not include sex.
6. A brothel is a location where people can participate in sexual activities with prostitutes that is usually owned by a third party.
7. The present Middle East, which was previously home to several civilizations like as Mesopotamia and Babylonia, is known as the Ancient Near East.
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