

SPWI JOURNAL FOR SOCIAL WELFARE

(A Multi Disciplinary Peer-Review Bi-Quarterly Research Journal)

Volume 3 Issue 4, October-December 2020

Editor

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SOCIETY FOR PUBLIC WELFARE AND INITIATIVES

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Volume 3 Issue 4, October-December 2020 RNI Title Code: TELENG/2017/74418 ISSN 2581-6322



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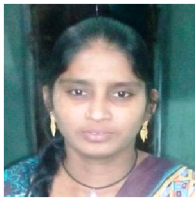
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THE PROBLEMS OF WOMEN SEX WORKERS – SOLUTIONS



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Abstract: *Women's sex work is perhaps the oldest profession all over the world. Alas, it is perhaps the most hated profession. Hated in the sense that people who visit them actually enjoy it, but in society, they pretend otherwise. As a concept, prostitution has been defined by social scientists in different ways depending on the extent of its prevalence. The most widely accepted definition; however, is the one given in the encyclopedia of social science which defines prostitution "as the practice in which a female offers her body for promiscuous sexual intercourse for hire etc. The present paper discussed the status of women sex workers, socio-legal status, factors of prostitution, consequences and remedies.*

Keywords: *Status of Sex Workers, Problems, Solutions*

Introduction

There are over 800,000 sex workers in India. However unofficial figures place these numbers far higher. Organizations of sex workers, the United Nations (UN) agencies and Commissions have understood and articulated sex work as a contractual arrangement where sexual services are negotiated between consenting adults. Implicit in this consent is the act of agency; wherein sex work can be a realistic choice to sell sex. Decriminalization of sex work is a pre-requisite to ensure the physical and emotional inviolability of sex workers, their right to life, right to freedom of labor, health and reproductive and sexual rights. Recent research with 3000 sex workers in 14 Indian states also finds a substantial segment of women had prior experience of alternative work and opted for sex work, for better income and livelihood opportunities. The uncertain legal status attached to their work and identity further "invisibilities" them as citizens with associate rights and entitlements.

Historical Background

Prostitution is one of the oldest professions of the world practiced since the birth of the organized society. Prostitution is practiced in almost all countries and in every type of society. In India, the Vedas, the earliest of the known Indian literature, abound in references to prostitution as an organized and established institution. In Indian mythology, there are many references to high-class prostitution in the form of celestial demigods acting as prostitutes. They are referred to as Menaka, Rambha, Urvashi, and Thilothamma. They are described as perfect embodiments and unsurpassed beauty and feminine charms. They are highly accomplished in music and dance they entertained divinities and their guests in the court of Lord Indira, the Lord of Hindu Gods. They were also sent to test the real depth of 'Tapasya' (penance) and devotion of great saints.

Prostitutes were common during the reign of the Pandavas and Kauravas (Historical Indian rulers). They were an important part of the court and both dynasties possessed harems of aristocracy in Brahmanic India. Having concubines is common among the aristocracy. Kautilya's famous 'Arthasasthra' contains rules for prostitutes and their activities and gives an account of how prostitutes should behave and how their lives are ordered. A code of conduct was prescribed, for people seeking their favor and for them. They had certain definite prerogatives, rights and duties. Vatsyayan, the noted Indian sage of the Third century B.C. devoted several pages on prostitutes and their amorous ways of life in his monumental treatise Kamasutra. Rules of conduct for the popular and successful practice of their trade have been prescribed. His classification of the prostitutes indicates that the common, private, private and the clandestine prostitutes of today had their prototypes in those olden days.

The sanctified prostitution in the third century A. D. in the Sanskrit works of Mahakavi Kalidas. Religious prostitutes were attached to the famous temples of Mahakala of Ujjain and the system of holy prostitutes became common. This class consisted of girls who had been offered by the parents the service of God and their religion. In south Indian, They are known as Devadasi and in North India as Mukhies. These dancing girls were considered essential at the time of the offering of prayers and were given a place of honor. Gradually due to the laxity of morals among the priests, they misused the systems for immoral purposes. Under the garb of the religious dedication of girls to temples, clandestine prostitution developed. The medieval period gave great importance to women and wine. The Muslim rulers except for Aurangazeb recognized prostitution and the profession flourished under royal patronage. The word 'Tawaif' and 'Mujra' became common during this era. During the Mughal era in the sub-continent, prostitution had a strong nexus with the performing arts. Mughals patronized prostitution which raised the status of dancers and singers to higher levels of Prostitution. King Jahangir,s harem had 6,000 mistresses which denoted authority, wealth and power. After the downfall of the Mughal Empire, hoards of concubines, dancing and singing girls women came out of the royal palaces. They were not trained

for any profession and society had no jobs to offer them. When faced with an economic problem they had no choice but to take recourse to the laziest of all the trades, the trade of sex. The place of women in India did not improve during the British regime. Conditions continued to deteriorate and in the absence of state control and regulation prostitution thrived on a large commercial scale. Social disabilities and the economic hardships of women made them an easy victim to the gangsters of this profession. This shows that prostitution existed in India in some form or the other from period to period and the evil has continued to persist.

Types of Prostitutes

Generally, prostitutes can be classified based on their 'modus operandi' which is as follows:

1. Brothel Prostitutes: Their operations are carried out in the brothel which is owned by ex-prostitutes. The prostitutes work for a commission based on her sexual service.
2. Call Girl Prostitutes: They generally operate independently from her place. She may be available directly or solicit customers through middlemen.
3. Street Prostitutes: This type solicits customers on the streets and takes the customer to a place of assignation.
4. Other Types: Clandestine forms of prostitution are also found in bare, massage parlors, amusement centers, dance clubs etc.

Factors Conducive to Prostitution

It is rather difficult to enumerate as identify all factors conducive to prostitution because it has often been argued that prostitution has its roots deep in the fabric of society. The social and economic subordination of women by men has often been cited amongst the important causes leading to prostitution. Some research studies suggested the following factors to be conducive to prostitution:

1. Abduction: This is the most common cause. Young girls are abducted from their villages /negative places on some or other pretext, exploiting their innocence. Some of these are going to movies, cities, temples/pilgrims, making them film-stars offering job opportunities and marriage. Contrary to common beliefs, most kidnappers are females or couples. The incidence of prostitution through abduction is estimated to be 35%.
2. Devadasi System: The inhuman system of prostitution with religious sanction "Devadasi System" continues to flourish in the so-called progressive and democratic country. Every year thousands of girls are dedicated to goddess 'Yellamma; 'Renuka' (mostly in the State of Karnataka and Maharashtra) and after a brief period of concubinage, they become accessible to urban-prostitution. Within these mechanics, it is found that three socialized

instruments perpetuate the fates of these women, namely economic organization, brute force and religious rituals. Devadasi System contributes to about 10% of total prostitution in India. The percentage of Devadasi is amongst the Bombay prostitution is 15-20%; in Nagpur, Delhi and Hyderabad 10% in Pune it is 50% and in the urban centers bordering Belgaum Dist. (Kolhapur, Sangli, Satara, Miraj, etc.) it is up to 80% of total prostitution. Devadasi System contributes to 20% of the child prostitution and it legitimizes the practice of putting them to prostitution.

3. Rape: About 6% of the girls entered prostitution after the incidence of rape. Rape on girls is a great social stigma and in some circumstances, the victims of rape are not even accepted at home. Apart from the delay or even the absence of justice, the victims have to face similar incidents now and then. When they don't find any safe place in society and don't foresee any better future perspective, they find their ways in the brothels. About 8% of the girls came to prostitution following the incidents of incest. The most common incest is between father and daughter, followed by uncle-niece. When the young victim of incest is exploited at home, she doesn't foresee safety anywhere in society and slowly ends up in prostitution. In certain circumstances, we have come across cases where the girls were sold by their fathers, uncles or brothers-in-law after subjecting them to incest.
4. Marriage: Though the problem of prostitution directly through marriage is not very common in Bombay, a few cases were noticed through this source. In Pune, nearly 15% of the women in prostitution came through marriage.
5. Children of women in prostitution: Female children of the women in prostitution invariably end up in prostitution (98%), as there is no safe place for the children and there is no program for them to date, to get them out of these areas and to provide them alternation livelihood. This contributes to about 10% of prostitution.
6. Social Factors in Prostitution: The view of women as a commodity is pervasive in popular manifestations of Hindustan culture in India. Women who have had sexual experiences are considered to be 'used goods' and are unlikely to ever marry. Without a husband, a woman has no source of income; she also cannot wear the marriage bindi. She is an impoverished cultural outcast. The prevailing line of reasoning is that she at least has a useful place as a prostitute. Women who have been widowed or divorced are also confronted with this social stigma. If a woman's husband dies, she has essentially outlived her purpose. Since she is not a virgin, she obviously cannot marry again. In rural areas, "bride burnings," in which a woman burns herself to death on her husband's funeral pyre, still occur. The social stigma, which leads a woman to believe that her life is worthless after her husband's death, is also attached to

a woman whose husband chooses a different woman as his wife. When strong cultural notions are combined with the potency of religion or poverty, even more people are pressured into prostitution. For example, a girl may become a street child because her mother died and her father's new spouse will not accept her. As a street child, she may be periodically arrested along with her fellow vagabonds for crimes, which they may or may not have committed. While in police custody, instead of simply being beaten as her male cohorts are, she may be sexually abused by the police officers. She may decide to become a prostitute to support herself and to find her place in the broken world in which she is fated to reside. Her children will likely be prostitutes as well.

7. **Poverty:** One of India's most striking characteristics is its material poverty. An estimated 40% of India's population lives in poverty. This means that almost 400 million people cannot meet basic survival needs like food, clothing, and shelter. This is an overwhelming, almost unimaginable statistic. Poverty does not create imbalances in gender and sex. It only aggravates already existing imbalances in power and therefore increases the vulnerability of those who are at the receiving end of gender prejudice. In a patriarchal setup, the section in families in societies that are affected is women and girl children. Caste wars, political strife, domestic conflicts through their manifestations and repercussions reflect strong gender prejudice against women. Violence against women, assault and rape on women are not individual sexual or physical crimes. It has become a tool of a political statement for aggression and gender persecution, which amply reflects on the degree of human degradation and commoditization of women in the eyes of the state, community, and society.

Indeed, such poverty belongs to an almost surreal world in which only the "wealthy" are certain to meet basic needs. Desperation seems to characterize the lives of India's poor. This desperate poverty is often cited as the root of India's growing prostitution problem. It is however argued that in many countries with a prosperous economy, high standard of living, universal education, full equality between men and women, the problem of prostitution remains unsolved. This indicates that trade in human flesh goes on unabated not simply because of ignorance, illiteracy, poverty or the like but also because human beings consciously choose this occupation and are willing to be manipulated by others.

Rights of Sex Workers

There has been a shift in the understanding of sex worker rights precipitated in part by the global HIV epidemic.

1. The Special Rapporteur on Violence against Women (SR – VAW) has observed that "measures to address trafficking in persons should not overshadow the

need for effective measures to protect the human rights of sex workers". The SR-VAW has also called for a review of the Immoral Traffic Prevention Act, 1956 in India that criminalizes sex work.

2. UN Resolutions, International agencies and Commissions have stressed rights-based response to sex work and the need to protect rights not just by decriminalizing sex work, but by eliminating the unjust application of non-criminal laws and regulations against sex workers.
 - a. The UN Economic and Social Commission for Asia Pacific resolution calls on members to address legal barriers to HIV responses including reviews of national laws, policies to eliminate discrimination against vulnerable populations.
 - b. The Independent Commission on AIDS in Asia, UN Special Rapporteur on Right to Health, Global Commission on HIV and the Law and UNDP Asia Pacific have recommended the decriminalization of sex work involving consenting adults.
 - c. National Human Rights Institutions have been called on to hold governments accountable for the protection of sex workers from discrimination, harassment, abuse and violence perpetrated by police or other government officers.
3. UN organizations, International agencies and Commissions call for recognition of Trafficking in persons for sexual exploitation and Sex Work as two different concepts to be understood and legislated accordingly. Sex Work organizations have also called for a review of laws that criminalize third parties who support sex workers to work within a safe environment.
4. The International Labour Organization (ILO) and UNDP have emphasized the need to provide sex workers with legally enforceable rights to occupational health and safety and the right to participate in the process of developing workplace health and safety standards.
5. Sex workers have been recognized as an invaluable resource in the law and policy reform process to developing non-judgmental and rights-based laws, policies and programs.
6. Elaborating the scope of Article 6 of CEDAW; General Recommendation 19 calls on States to recognize that their (sex worker's) unlawful status makes sex workers vulnerable to violence and hence need equal protection of laws against rape and other forms of violence. States were asked to report on the measures to protect women in sex work and the effectiveness of these measures. The CEDAW Committee has recommended the need for measures to prevent "discrimination against sex workers and ensure that legislation on their right to safe working conditions is guaranteed".

7. The Supreme Court of India has observed that sex workers are entitled to a right to life and must be accorded the protections guaranteed to every citizen. It instructed the State to provide recommendations on the rehabilitation of sex workers who wish to leave sex work of their own volition and to provide conducive conditions for sex workers who wish to continue working as sex workers per Article 21 of the Constitution. A Supreme Court panel recommended that the Central government and Election Commission issue voter ID cards, relaxing verification requirements, and state governments and local institutions issue ration cards to sex workers.

The emerging rights discourse at the global and national level argues that efforts to respect, protect, fulfill and promote the human rights of sex workers need to be premised on ensuring their rights as citizens under the Constitution. Laws, policies and programs devised in partnerships with sex workers are most likely to be effective. Despite clear recommendations by international human rights instruments India has failed to recognize the marginalization, vulnerabilities and human rights of sex workers. Despite specific requests made by the CEDAW Committee in its list of issues to the Government of India in 2013, the report submitted by India has not highlighted the status of sex workers, or specific measures are taken to respect, protect, fulfill and promote their human rights.

Status of Justice for Sex Workers

Access to justice for women is constrained by social barriers ranging from lack of knowledge of their rights, dependence on assistance and resources and the threat of sanction; and lack of capacities in the justice systems to respond to the particular needs of women. In the case of sex workers in India, stigma and moral lens attached to sex work further accentuate barriers to accessing justice. Their uncertain status in law results in judgments that often mark sex-workers as criminals and repeat offenders. Despite Free Legal Aid being enshrined in the Indian Constitution and the Committee's recommendations that the State Party ensure free legal services to poor and marginalized women, and monitor the quality and impact of such services, access to legal services for sex workers remains a pipe dream. The Supreme Court has also observed that the State and District Legal Services needs to play a role in publicizing entitlement schemes available with the government. The failure to receive legal assistance to pursue her is in essence, a denial of the right to a fair trial for women.

It has been observed that women and trans-women in sex work are unable to access appeals. A preliminary analysis of cases in the twenty-two high courts between 2010 and 2013 about sex work/ prostitution and loitering or creating public nuisance under the penal code or police acts indicated only eight such cases. This abysmally low figure indicates almost negligible access of sex workers to the higher judiciary and courts of appeal. It indicates denial of opportunity to sex workers for correction of

errors made by lower courts, emerging from lack of understanding the specific circumstances of sex workers, having to barter sexual favors to lawyers, as well as bias and prejudice due to her identity. In instances where sex workers approach district courts, they report having to deal with bias from lawyers and court officials. They are advised to give up “illegal activities” (sex work) or, if they are appearing on a soliciting charge, they are advised to pay a fine and “not drag the case”.

Problems of Sex Workers in India

- 1. Violence:** Violence against sex-workers in India is linked to the perception of sex workers are criminals and not citizens. This has led to systemic, systematic and large scale violation of human and fundamental rights such as the right to life, dignity, equality, equal protection and due processes under the law. Several factors put sex workers at risk of violence. The stigma attached to sex work exposes them to violence in personal spaces from family members as well as from intimate partners. Violence is used as a mechanism of asserting sexual control; it is normalized as a punishment for having sex with other men. Since there is little appreciation amongst police of the contexts and factors affecting sex workers’ lives, they ignore complaints related to family and partner violence; instead of offering advice to women about stopping sex work and settling domestic matters ‘amicably’. On their part, sex workers are unaware of provisions of the domestic violence act which provides redress against partner violence. Police apathy to the plight of sex workers results in denial of access to provisions under the Protection of Women from Domestic Violence Act (PWDVA 2005). Sexual assault of sex workers is also high with little social or legal recognition. Myths surrounding the violence of rape against sex workers ensure that they are constantly on the fringes of access and redress to justice. These myths include “A sex worker cannot be raped” (i.e., if she has consented to multiple partners or commercial sex, she has given up the right to refuse other partners or other acts).
- 2. Criminalization, Stigma, Social Exclusion and Climate of Impunity:** For sex workers, the State is an instrument of violence; feared, rather than seen as protectors of rights. People in positions of authority routinely demand sexual favors from sex workers for speedy redress of a grievance or accessing entitlements. They regularly verbally abuse sex workers using specific sexual innuendo and language. Law enforcement is regarded by sex workers as the most repressive state agency. Police abuse sex workers, illegally detain, sexually assault and torture them in custody. Sex workers report being arrested under public nuisance or obscene conduct provisions of the penal code. They are produced in court and released on the payment of fines. Most sex workers choose not to contest their arrest under these provisions since they find it easier to pay fines and be released. Stigmatization, which has its

roots in standards set by patriarchal morality, is a major factor preventing women from accessing their rights. This structural violence further aggravates discrimination in the lives of women in sex work. It creates a fertile ground for social exclusion and denial of rights as was witnessed in the exhibition of impunity in *Nippani violence*, Maharashtra in 2002. As a result of law and social practice, sex workers face difficulties accessing health care, housing, and supplementary employment opportunities. They risk verbal, physical, and sexual abuse, arbitrary arrests, and harassment. Stigma decreases their ability to seek protection from the courts or the police when they suffer from violence and discrimination.

3. **The Conflation of Trafficking and Migration, Leading to a Denial of Labor Rights:** There is an urgent need to distinguish between “trafficking”, “sex work” and “migration”. The SR- VAW observed there was a tendency to conflate sex work with trafficking in persons. She observed that when sex workers are identified as victims of trafficking the assistance that is provided to them is not targeted to their specific needs. Though many sex workers have been deceived or lured by payments into sex work and might be said to be “trafficked”, there is a large number, who have not entered sex work due to any basis involving coercion or deceit. They have moved in search of a better life and livelihood. Though poverty and inequality are reasons for people to enter sex work and indicate inadequate “free choice”, it cannot be said that all people suffering from such conditions have been trafficked. They should benefit from human rights support, including social and economic choices. When trafficking is confused with women’s voluntary migration (for employment, residence, or escape from persecution by State or non-State actors) protectionist measures steeped in patriarchal control over women’s mobility result in curbing female migration within and outside the borders of the country. This limits women’s access and opportunity to travel away from the family, kinship in search of a better life. Even though the lines between the deceitful transport of a person and her will to travel may be blurred (with women facing either situation at different points in their lives), curbing women’s mobility is not the answer. The problems are multiplied for women in sex work. Lack of support from family and unsafe, inadequate workplaces (as well as from family members who would like the income to reach back home, but without the ‘sullied’ woman returning home) renders an older sex worker destitute and disenfranchised, even if she may have earned a considerable income during her working years.
 - a. **Conflation with Trafficking and Resulting Rights Violations:** While sex work is not an offense in India; the Immoral Traffic (Prevention) Act 1956 (ITPA) consists of a range of provisions that criminalize almost every aspect relating to sex work. Provisions of ITPA have been used to arrest and harass sex workers,

regardless of whether they are in sex work voluntarily or have been coerced. A report commissioned by the National Human Rights Commission found that the soliciting statute was the primary law used in ITPA and observed, "It is disturbing to note that out of almost 14,000 persons arrested every year under ITPA, approximately 90% are women." A study in red light areas found that 66% of cases registered in Mumbai and 56% in Delhi were under the soliciting statute.

- b. Raids - A Human Rights violation of Sex Workers:** Raids are executed by the police for many reasons, including complaints lodged by NGOs who intend to rehabilitate sex workers and repatriate them, to abolish this work. The complaint is lodged under the ITPA to rescue minors and adult women believed to have been trafficked into sex work. The raid could also be undertaken to evict sex workers from a "red light area" under ITPA and other public nuisance laws. Raids are often used to 'sweep the streets' of sex workers, and clients vagrancy laws, and soliciting under ITPA. Police conduct the raid and indulge in physical violence and extreme verbal abuse which is often sexual, to intimidate sex workers.
- c. Rescue and Rehabilitation:** Perhaps the most widespread human rights abuse emerges from the rescue and rehabilitation provisions of ITPA. These interventions involve brothel raids by special police officers and NGO workers, where women are "rescued" and placed in rehabilitation facilities. Police raids, frequent in red light areas and under the pretext of rescuing minors, do not distinguish between minors and consenting adults. In 2012, in perhaps one of the largest raids in recent times, an operation was carried out over 3-4 days in a red light area called *Simplex building* in Mumbai and over 200 women were "rescued and sent to correction homes". Narratives of raid and rescue operations indicate the highly abusive and violent nature of these operations. Consent of the adult women in sex work who are "rescued" is immaterial, and they are remanded to correction homes despite testifying that they were in sex work willingly. These adult women are released into the care of parents or family members on the condition that they will give up sex work. Often the judgments handing over "custody" of the adult sex worker to the parent or family member are based on moral judgments. "Out of 38 women arrested during the raid, 16 women were released by the court, and 12 women were sent home after they agreed that they would not remain in Kolhapur and would leave sex work. Rejecting the application for custody of one sex worker filed by the family, the order said that if "the family member had taken care of the victim, she would not have suffered from HIV disease". Collated from the Narratives of Sayara Jamadar (42), Bilkis Inamdar (45) and others. Raid on Dombarwada community of sex workers, Kolhapur, 2014. The final step in the rescue intervention is the (often) involuntary rehabilitation of women in sex work. Rehabilitation programs

are run either by non-governmental organizations or are part of government programs. Sex workers are taken to rehabilitation programs where they are kept in jail-like conditions; experience repeated sexual abuse and eventually released. Sex worker organizations have drawn attention to the health and safety concerns of women involuntarily removed from brothels. Rehabilitation programs often undermine the very purpose of their existence, given the high rates of violence experienced by women in rehabilitation homes; the return of women to sex work; and, disrupting their everyday existence because of being detained for extended periods. The SR-VAW has reported that the rehabilitation of sex workers in India is an issue for concern⁶⁸. The Supreme Court of India has observed that rehabilitation training assistance for sex workers should not be made contingent on a forcible stay in corrective homes, nor can sex workers be involuntarily incarcerated in corrective homes “which they consider a virtual prison”. Despite these observations, forced rehabilitation continues to be the norm across the country.

- d. Eviction, Repatriation:* Sex workers are often evicted from the premises and are unable to return to their residences.⁷⁰ In the case of the *Dombarwada Raid* in Kolhapur Maharashtra in 2013, over 200-250 women were residing in the 30-40 houses, and many had been resident for the past 30 years. Ever since the raid, the place has been locked and the sex workers are being prevented from entering their houses. The women have requested the district authorities to provide them with alternative residences, but the authorities have ignored them. In 2013, the Justice Verma Commission’s recommendations to the Criminal Law Amendments, inserted the Amended Section 370 to define the offense of Trafficking. A clarification issued by the Verma Commission stated that Amended Section 370 was to protect women and children from being trafficked. The section did not include within its ambit, sex workers who practice of their own volition. It further clarified that the amended section should not be interpreted to permit law-enforcement agencies to harass sex workers who undertake activities of their own free will and their clients. Despite irrefutable evidence emerging from government, non-government research and voices of numerous affected sex workers, the State has failed in its obligations to respect, protect and promote the rights of sex workers who are arbitrarily arrested and evicted. State inaction to assess and amend punitive laws that impact sex workers and their families has led to sex workers living in a criminal and stigmatized environment. By giving rehabilitation schemes as the only option for sex workers, the State has failed in its duty to protect the rights of sex workers.

4. **Stigma in Health Care:** Sex workers experience debilitating stigma and discrimination that erodes their ability to protect their health and well-being. The government services are typically routed through primary and tertiary

health care set up comprising the district hospitals, primary health care centers, sub-centers and community health centers. Due to the Government of India's emphasis on HIV prevention, the National AIDS Control Organization and its partners set up STI and HIV prevention initiatives across the country for vulnerable communities including sex workers. These centers provided stigma-free STI and HIV related services to sex workers. The National Commission for Women observed that accessing health care is a major concern for women in sex work. While the 'immoral whore' image makes it difficult to get good medical treatment, illiteracy, ignorance and fear of the medical establishment renders them open to exploitation and extortion of money and resources.

5. **Social Security and Support:** The demand for social security nets for the unorganized sector has emerged as a right to ensure social protection for marginalized and invisible sectors of the workforce in India. The social security of sex workers also needs to be placed within the concerns of unorganized workers. In December 2008, the Social Security for the Unorganized Sector 2008, legislation was enacted by the Indian Parliament. Sex workers have voiced the need for inclusion into these social protection schemes and to participate in broader campaigns and forums demanding rights for the unorganized workforce. However, income generation schemes at the district level are made conditional to sex workers giving up sex work, a clause that many sex workers reject. Another factor that impedes participation in income generation schemes is that sex workers are required to be part of self-help groups (SHGs) within their village or areas. Many sex workers participating in such SHGs have reported being discriminated against and marginalized by other SHG members. Hence the demand for identity-based SHGs needs to be considered by the government as a specific relaxation for marginal communities. The *Pension Parishad*, a national movement to demand Universal Old Age Pension has included the concerns of old sex workers including relaxing the eligibility age to 45 years for highly vulnerable groups such as tribal groups, transgender and women in sex work.

The challenge of documentation: Stigma related to their work and identity and the migratory nature of work prevents sex workers from accessing identification documents, essential to accessing entitlements. For instance, in 2009 it was estimated that only 20% of over 5000 sex workers in Delhi had a voter's ID card. Sex workers from the National Network of Sex Workers also shared that residence proof, father's name and caste, and the ration card were some documents required for getting their children registered in schools. Sex workers applying for housing schemes narrated that they were asked for proof of residence and ration cards. The Public Distribution System (PDS) meant for people below the poverty line to access food items cheaply, needs

supporting proof of sex workers being below the poverty line. The SR -VAW has observed that lack of identification cards or status of unregistered citizens contributes to the normalization of violence against women. While the Supreme Court's recommendation to the central and state government to relax verification criteria for obtaining identity cards and ration cards for sex workers needs to be implemented by the State, it is critical to engage with the barriers posed by the stigmatized identity of sex workers. Sex workers recount that they are asked to provide sexual favors in return for obtaining these documents, humiliated and commissions and sexual favors are sought to relax the verification criteria. Landlords refuse to issues rent receipts or rental agreements. The State needs to ensure that these documents are provided to the applicants in a time-bound manner and the reasons for refusing the documents be provided in writing to the applicants.

6. **Denial of Safe Environment and Labor Protection:** Sex work happens in informal settings and is an occasional form of income or a long term occupation. Despite this, a safe working environment through standard labor protection measures continues to be denied to sex workers. This includes access to benefits, legal redress for workplace grievances, adequate health and safety regulations. Detention of sex workers in rehabilitation centers without access to legal counsel or the right to appeal are human rights infringements that need protection under adequate labor clauses.

Solutions

The problem of prostitution is a very complex one since it is deeply rooted in society. Thus, it has to be handled from two angles (1) Preventing new incumbents from entering prostitution (2) Rehabilitating women who are already in prostitution.

Preventive Strategies

Counseling and guiding programs to educate the public concerning the causes and problems of prostitutes coupled with sex education is the need of the hour. More and more economic opportunities should be made available to go vulnerable to prostitution. Police should be directed to register cases related to abduction or abuse related to a girl on a priority basis. Following steps must also be taken to ensure effective prevention:

1. **Community Policing:** The concept of Community Policing should be made popular, so that the involvement of civilians and NGO's in Policing can be done, to prevent and combat prostitution. Community Policing is a philosophy based on the paradigm of solving the problem in synergy where police act as a facilitator and the community is made to share responsibility.
2. **Second Generation Prevention:** The problem of prostitution can be minimized if the children of the prostitutes are given a respectable future. A Beginning

has been made by Prajwala; an anti-trafficking organization of Andra Pradesh. Efforts are being made by the organization to explore education and self-employment alternatives for the survivors.

3. Synergy: The UNODC (United Nations Office on Drugs and Crime), New Delhi, in partnership with the Government of India and State Government agencies as well as civil society partners have set up Anti-Human Trafficking Units (AHTU) at Andra Pradesh, Goa, & West Bengal. These units with the help of trained manpower are making a tremendous impact on the law enforcement scenario of India. The AHTUs in Andra Pradesh have rescued more than 700 victims of which more than 100 are children below 18 years of age in six months. They have also arrested more than 1000 offenders including 300 customers. Such units should be set up in all States and Union Territories of India.

Rehabilitative and Follow-up Strategies

Due to the relentless efforts of the NGO's social workers and other social development organizations, it has been realized that prostitution is one of the worst social evils and has to be eliminated at the earliest. This can be done through a concrete strategy and action plan of which rehabilitation is an integral part. Rehabilitation is both physical and psychological. Physical rehabilitation is essentially economic whereas psychological rehabilitation has to be built up through a process of assurance and reassurance. The two most go side by side. The first pre-requisite of psychological rehabilitation is that the freed prostitutes must be wrenched away from the old habitat and be rehabilitated at a place where they will no longer be subject to the deals or owner of the brothels. Unless they are psychologically assured that after their release their overall conditions will improve, there is every possibility that they may slide back to their old environment. To ensure rehabilitation, the Government with the NGOs must imbibe awareness among the sex workers about their legal status and rights. A gender-sensitive market-driven vocational training should be provided to all the rescued victims. It is observed that the immediate requirement of the sex workers is financial security, as after leaving their old profession they are even unable to earn their livings. Thus, a co-operative credit society led by the NGOs on their own or with the support of the government is the need of the hour. This effort shall save them from the exploitation of the money lenders and humiliation by the banks.

Legalize to the Prostitution

Some people opine that prostitution shall be made legal in India and accept them as a part of society because the problem of prostitution is inevitable. The benefit of legalizing prostitution in India will be that at least we will have a track record of Sex workers for example when the dance bar in Bombay was closed most of the bar dancers migrated to Gujarat and Karnataka and other neighboring state and started their business undercover. Legalizing prostitution will see these women, who live life on the

edge everywhere, gaining access to medical facilities, which can control the spread of AIDS. There is a very strong need to treat the sex industry as any other industry and empower it with legal safeguards. The practical implications of the profession being legal would bring nothing but benefits for sex workers and society as a whole. Keeping prostitution illegal also contributes to crime because many criminals view prostitutes and their customers as attractive targets for robbery, fraud, rape, or other criminal acts. The criminals realize that such people are unlikely to report the crimes to police, because the victims would have to admit they were involved in the illegal activity of prostitution when the attacks took place, now if it is legal then they will easily go and report this to police. Benefits of legalizing prostitution are:

1. The legalization of prostitution and the sex industry will stop sex trafficking.
2. The legalization of prostitution will control the sex industry.
3. Legalization of prostitution will decrease clandestine, hidden, illegal and street prostitution.
4. The legalization of prostitution will protect the women in prostitution as they will have rights.
5. Women in systems of Prostitution want the sex industry legalized as they are the one who suffers the most as they don't have any rights.
6. The legalization of prostitution will promote women's health as they can have easy access to medical facilities that they don't have when it is illegal.
7. Recognizing prostitution as an economic activity, thus enabling women in India to obtain working permits as "sex workers".

However, those who demand that prostitution should be "legalized" and treated and with "respect and dignity" at par with all other professions and occupations need to answer a few basic questions:

- a. What does the term "legalize" actually imply? Does it mean that a prostitute can open a brothel or sex parlor anywhere she likes and advertise her services? Does it mean men or women supplying call girls should be able to set up an office in any neighborhood they like, just as doctors set up their clinics, and put up a hoarding outside the house proclaiming that call girl are available between such and such hours?
- b. Since the sex trade inevitably comes with sex slavery and violent forms of pornography and sex trafficking it is essentially mixed up with criminal mafias even in those countries where it is legalized. If a brothel owner is free to set up a shop in my neighborhood, does it not endanger my life? How many even among those who are empathetic towards the plight of prostitutes are willing to allow a brothel right next to their own house? How many of us are

- willing to let our young children grow up amidst an atmosphere where renting a women's body for sex is considered a legitimate activity?
- c. If the vast majority of people in India do not want to have brothels functioning openly and legally in their neighborhoods, the only way to make provision for "legal" sex work is if sex workers agreed to operate in specially designated areas traditionally known as red-light districts. A sex worker can then seek individual licenses or licenses for registered brothels. But every sex worker does not want to leave in openly identified sex zones.
 - d. Most women, especially those who operate as high society call girls prefer to operate surreptitiously, especially those who want to wear the mask of respectability. Most men who run sex rackets, including trafficking of women would also not want to be openly known as pimps and procurers. How does the law handle such persons? If people come to know that a person of their neighborhood is using his premises to run a call-girl racket, do they have the right to seek its removal or demand that the call-girl center is shifted to a red-light district after the trade is legalized? Or does it mean other citizens have to suffer the presence of such activities in the name of "respecting" the rights of sex workers to the occupation of their choice and thereby endanger their own lives?
 - e. Those who demand that sex work be given the same "respect" as any other profession, need to explain whose duty it is to give or ensure "respect" for prostitutes and pimps who are their "helpmates" Is the government expected to enact a law requiring people not to shun prostitutes, for instance, it did to ban the practice of untouchability? One can prove that one does not practice untouchability by freely intermixing and dining with castes condemned as untouchable. How does one prove one's "respect" for a prostitute? Do we have to send our children to brothels to intermix with the children of sex workers or do we hold special functions to socially honor the most successful among them?
 - f. Trafficking is a criminal offense and should not be conflated with sex work. Trafficking of Adult Persons and Trafficking of Children should be dealt with under two separate laws to ensure that consenting adults are not infantilized and children are given justice.
 - g. Shut down compulsory detention or rehabilitation centers for people involved in sex work. Instead, provide sex workers with evidence-based, voluntary, community empowerment services.
 - h. Ensure witness protection for sex workers testifying against traffickers and violators.
 - i. Repeal laws that prohibit consenting adults to buy or sell sex, and laws that prohibit commercial sex, such as laws against "immoral" earnings, "living off the earnings" of prostitution and brothel-keeping.

- j. Ensure that existing civil and administrative offenses such as “loitering without purpose”, “public nuisance”, and “public morality” are not used to penalize sex workers and administrative laws such as “move on” powers are not used to harass sex workers.
- k. Ensure participation of sex work organizations in drafting/ amending laws, policies and programs relevant to them and their eventual implementation process.
- l. Sensitivity to issues faced by sex workers should be made a part of training for police personnel, public prosecutors and the judiciary in partnership with community organizations of sex workers.
- m. Guard against arbitrary arrest and detention of sex workers, and investigate harassment, extortion and abuse by law enforcement staff
- n. Prohibit the mandatory HIV and STI testing of sex workers the following arrest.
- o. Maintain confidentiality and respect the privacy of sex workers approaching law enforcement and judiciary for redress in cases of sexual assault, exploitation and violence. Ensure skills and sensitivity in dealing with women, persons who identify as women and transgender women in sex work.
- p. Strengthen National Human Rights Instruments (NHRI's) and increase their accountability to respond to complaints or initiate *suo moto* action reports of violence and rights violations by state and non – state actors against sex workers.
- q. Ensure Free Legal Services are available in rural areas for sex workers and offered by lawyers who have been trained in issues faced by sex workers.
- r. Ensure delivery of legal services and/or referrals to existing legal services to ensure that sex workers have support to seek redress including an appeal to higher courts
- s. Ensure implementation of the Supreme Court recommendations to issue identity documents and ration cards to sex workers at the national, state, district and sub-district levels.
- t. Ensure the empowerment, active participation and leadership of sex work networks, federations and collectives in designing policies and processes for accessing social entitlements.

In the ultimate analysis, it can be concluded that Prostitution in India requires no specific remedy, per se, in the form of criminalization, decriminalization or legalization. It will be remedied when women and men in this culture can celebrate their sexuality and their unique identities. It will be remedied only when women and men are economically and politically the same.

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