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Paper Authors

Sandhya Kumari



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PROSTITUTION IN INDIA :- LEGAL OUTLOOK

Sandhya Kumari

Ballb 3rd Year Student

Prestige Institute Of Management And Research

ABSTRACT

Since the conception of marriage, prostitution has been in Indian society and is as old as civilization itself. Prostitution is now often associated with violence, prejudice, and exploitation. In Indian society, prostitution is frequently regarded as taboo; hence the necessary attention has not been given to its regulation. This essay explores the relationship between prostitution and exploitation and violence, as well as the potential impacts of legalising and regulating prostitution on the abuse of sex workers. The post- and pre-independence governments have taken a number of actions addressing prostitutes, numerous books and articles on its legalization, as well. While these publications focus on a more general aspect of the issue, this research article examines two very particular issues. No matter if it is legal or illegal, prostitution will always exist. Therefore, it is preferable to confront the issue at hand and perhaps come up with solutions to the issues that affect women and children who engage in prostitution.

KEYWORDS:- PROSTITUTION , INDIAN LAWS , WOMEN SAFETY , VIOLENCE , SEX WORKERS.

2. INTRODUCTION

Non-selective sexual activity performed in exchange for cash or other material goods is referred to as prostitution. In the twenty-first century, women are not the only ones

working in this field. Prostitution is also practiced by men and transgender people, though less frequently than with women.

The Rig Veda¹ makes reference to prostitution in the setting of India. The Tawaifs provided entertainment for the elite in mediaeval India, such as dance and song. This was an early stage of prostitution that subsequently developed into providing sexual favours to regular people. Today, this is referred to as prostitution. When it comes to prostitution, the most important question is whether legalising it will make things better or worse.

Prostitution is currently allowed in Austria, various states in Australia, New Zealand, Canada,

Belgium, and Brazil. Prostitution is neither expressly forbidden nor strictly controlled in India. The Immoral Traffic (Prevention) Legislation², 1956 (ITPA), often known as the SITA act, makes certain activities such as owning or working in a brothel, pimping, and organised sex work unlawful (hereafter referred to as the same). Prostitution is referred to as "sexual abuse" under this act. However, men who have chosen the profession of prostitution are not recognized by the statute.

¹ Sukumari bhattarjji prostitution in ancient India

²The Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament

Because prostitution is stigmatized, prostitutes frequently receive medical attention. This includes STIs, HIV/AIDS, and unintended pregnancies among prostitutes. Regulation of prostitution and brothels will therefore aid in reducing this threat.

PROSTITUTION EXPLOITATION AND VIOLENCE

The Oxford English Dictionary defines prostitution as "the practice or occupation of engaging in sexual contact with someone for compensation." One of the oldest professions in the world is frequently considered to be prostitution. In the twenty-first century, women are not the only ones working in this field. Prostitution is also practiced by men and transgender people, though less frequently than with women. There are many different types of prostitution, such as street prostitution³ escort brothels⁴ and prostitution⁵. Various

³ Street Prostitution is a form of sex work wherein a sex worker solicits customer from a street

⁴ A brothel is a place where people may engage in sexual activities with prostitutes, usually own by the third party

⁵ An escort is someone who offers companionship that may or may not be in the form of sex

nations have different laws governing prostitution. Prostitution is currently legal and regulated in Austria, various states in Australia, New Zealand, Canada, Belgium, and Brazil. The majority of African countries, as well as Brazil, Argentina, Italy, Spain, the United Kingdom, Singapore, and Sri Lanka, to name a few, have laws against prostitution. Prostitution is authorised but unregulated in nations like India.

It is possible to trace the history of prostitution back to the Ancient Near Eastern Civilizations⁶ where it is depicted in temples. With the beginning of illicit love affairs or extramarital affairs in Ancient India, prostitution in India first took on its current shape. With the use of the name "Sadharani,⁷" which is synonymous with "prostitute" the Rig Veda implies the existence of prostitution. Prostitution developed alongside the institution of marriage. Even during the Mohammedan era, dancing girls who occasionally served as prostitutes were hired by the Sultans' Court. who on occasion served as prostitutes. Additionally, the Sultans

maintained these women for the amusement of the soldiers. The term "Tawaifs" applied to these women. For the troops, brothels were built during the British era. One of the earliest pieces of legislation pertaining to prostitution in India was the Cantonment Act of 1864, which was passed by the British Raj.

II. Legal aspects of prostitution in India

Prostitution is largely allowed in India. Although private prostitution is permitted, solicitation and organised prostitution, such as running a brothel, are not. Outside of open areas, prostitution is possible. In India, only female prostitution is accepted.

Because prostitution is a secretive industry with racket-like organisations like brothels, it is difficult to estimate how common it is. Even though it is technically unlawful to operate a brothel, the government makes little effort to find them and dismantle the sex industry. There are, however, a few prostitution-related laws.

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⁶ Ancient Near East is the modern Middle East, which was earlier the home for many civilizations such as Mesopotamia, Babylonia, etc.

⁷ Sadharani is the term for a courtesan, who was not possessed by a man as was the trend in Ancient India.

India, prostitution in India first took on its current shape. With the use of the name "Sadharani," which is synonymous with "prostitute", the Rig Veda implies the existence of prostitution. Prostitution developed alongside the institution of marriage. The Sultans' Courts used dancing girls, some of whom were prostitutes, even throughout the Mohammedan era. Additionally, the Sultans maintained these women for the amusement of the soldiers. The term "Tawaifs" applied to these women. For the troops, brothels were built during the British era. Cantonment was implemented by the British Raj.

Many contend that prostitution is a form of exploitation of women. This is true, at least in the context of India. In India, prostitution is more of a subjugating profession for women where women are mostly forced into it, either passively or actively. This is on account of being trafficked or sold as child prostitutes by their own parents, or opting for prostitution as a profession to earn a livelihood out of it (as a necessity). In this way, women and children are being exploited and forced into prostitution. Vulnerable or poor women are targeted and are roped into prostitution on the pretext of marriage or job opportunities. Many a times, they are forced into the profession by their

own family members. After being trafficked this way, they are subjected to the most gruesome form of torture by their clients, with can be deduced by the several interviews of Indian prostitutes by various researchers and social workers. The clients, mostly men, refuse to wear a condom which increases the rate of HIV/AIDS. They pay off the brothel owners to continue to exploit the women.

Many claim that exploitation of women takes the form of prostitution. This is accurate, at least in relation to India. Prostitution is more of a subjugating vocation for women in India, where most women are either passively or actively coerced into it. This is due to them being sold or trafficked as young prostitutes by their own parents, or choosing prostitution as a career to support themselves (as a necessity). Women and children are taken advantage of and forced into prostitution in this way. Under the guise of marriage or employment possibilities, vulnerable or underprivileged women are recruited and forced into prostitution. They are frequently coerced into the profession by members of their own family.

III. Effect of legal prostitution exploitation and violence

The moral, medical, and legal ramifications of legalising prostitution have all been taken into account. As previously indicated, prostitution that takes place in secret and on an individual basis is lawful in India. Prostitution needs to be regulated, and brothels and related businesses need to be under government control. Despite the fact that there are laws prohibiting the development of brothels and pimping, these businesses nevertheless operate and take advantage of women. Police raids aren't always useful since the proprietors of the brothels bribe the officers. It is clear that supply and demand are to blame for this. Supply and demand will be met if the government takes control of these brothels, and middlemen won't be needed either. In addition to him, prostitutes must be permitted to practice their trade in private. Once prostitution is decriminalized, governance of prostitution will be easier. This will help in reducing forced prostitution of women and children. The existing system makes it difficult to determine whether there is consent of the women to carry out prostitution. Bringing prostitution under the legal eye will make it easier to control

criminal activity and also provide aid to the victims. By regulating prostitution, minor girls can be taken out of the profession and pedophilia can also be checked.

Sexual assault and violence towards prostitutes by the clients happens with the permission of the brothel owners who are given more money to allow the clients to perform violent acts towards the prostitutes. Prostitutes practically have no relief or escape from this kind of violence. Replacing these inhumane middlemen with government control will do wonders in curbing such atrocities committed against women in the name of prostitution.

Governance of prostitution will be simpler once it is decriminalised. This will lessen the amount of women and children being coerced into prostitution. It is challenging to ascertain whether the women have given their agreement to engage in prostitution under the current system. Bringing prostitution under the legal radar will help victims and also make it easier to manage criminal behaviour. By regulating prostitution, young women can be removed from the industry and paedophilia can be curbed.

The operators of the brothel give their customers additional money in exchange for

allowing them to do violent acts against the prostitutes, which includes sexual assault. Almost little respite or escape from this kind of assault is available to prostitutes. Of course, these steps won't end all forms of exploitation of women. In addition to regulation, law enforcement must take a proactive role in dismantling any ongoing illicit networks. Police corruption must never occur, according to the administration. This type of regulation of prostitution has the potential to drastically reduce social ills like exploitation and violence in the sex industry.

5. CONCLUSION

Prostitution is one profession that has been considered shameful by the society, while the prostitutes are considered impure and shameless individuals. In India, laws related to prostitution are inadequate and have no clear approach. Due to this, there is an utmost necessity of regulation for such activities. Since sex work will still continue to exist, even after imposing strict laws, it is better to have regulations rather than banning the act completely. Prostitution is a profession that also brings along violence and exploitation in certain cases. However,

for some individuals, it may help in running a family. Additionally, the people must be sensitized with respect to problems relating to women so that they do not commit such inhumane atrocities against them, which is where the key concern persists. Considering these aspects, the researcher feels that prostitution should be legalized with a regulatory body overlooking the practice and concludes by saying that legalizing and regulating prostitution ensures protection of sex workers and children, and their rights.

The profession of prostitution has long been regarded as shameful by society, and those who engage in it are seen as unclean and shameless. India's prostitution regulations are ineffective and lack a defined strategy. Due to this, control of such operations is absolutely necessary. It is preferable to have restrictions than to outright forbid the conduct of sex work because it will still exist even after strict laws are put in place. In some instances, the profession of prostitution also involves violence and exploitation. However, it might support certain people in managing a family. In order to prevent such inhumane atrocities against women, the public must also be made aware of issues relating to women.

6. REFERENCE

- https://en.wikipedia.org/wiki/Prostitution_in_India
- <https://www.outlookindia.com/natiol/explained-the-supreme-court-order-on-sex-workerslaws-on-prostitution-how-sc-order-changes-things-news-198865>
- <https://www.legalserviceindia.com/legal/article-3392-legalization-of-prostitution-in-india.html>
- <https://www.myadvo.in/blog/prostitution-in-india-read-its-causes-legality-and-law/>
- <https://blog.ipleaders.in/legal-aspects-related-to-prostitution-in-india/https://www.indiatoday.in/law/story/how-supreme-court-intervention-will-change-lives-of-sexworkers-1954621-2022-05-26>