



## LICENSED FLESH TRADE- INTERNATIONAL AND DOMESTIC SCENARIO

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**Abstract:** Prostitution is one of the world's oldest industries. The Roman verb *prostituere*, meaning "to expose in public," is whence we get our English word "prostitution." Prostitution, as defined by Merriam-Webster, is having sexual encounters with several clients in exchange for money. The Rigveda has the oldest known reference to prostitution in ancient India. Women who were frequented by many different males are described as courtesans and prostitutes in the Rig Veda. As males get linked with a young courtesan, so the brilliant Maruts (storm gods) are believed to have been associated with the youthful (lightning) in Rigveda. I.167.4. The custom of rulers presenting rishis with slave women as a gift is mentioned in the Rig Vedas. While prostitution was likely widespread in ancient civilization long before it was mentioned in written sources (a few decades after the Vedas). The bronze dancing girl from Mohenjo-Daro represents a holy prostitute working inside the confines of the mother-goddess temple during the time of the Indus Valley Civilization. In his work Arthashastra, Chanakya explains why a prostitute is successful and what she does for a living. State-regulated prostitutes, known as *Ganika*, generated huge sums of money for the government. There was a *devadasi* system earlier that used to contribute all her life in the devotion of Lord Krishna. They were highly respected by royals. Later they were called *Nagarvandu* i.e. Bride of the town they were called by royals to sing and dance. Later when British people came to India they changed to the concept of the previous system and introduced prostitution. British officers used to call *Devadasi* to perform art and from here it became the beginning for one night stand. The Indian Economy began to deplete and people started losing their means of livelihood women then started selling their bodies to the British officers in an exchange for money.

**Keywords:** oldest profession, prostitution, promiscuous, sexual, courtesans, profession, slave girls, sacred prostitute, dancing girl, lucrative.

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### 1. INTRODUCTION

The number of sex workers in India is unknown at this time. The 2007 MWCD study estimates that there are 3 million people working in the sex industry; of them, 35.4% are minors. There are an estimated three million prostitutes in the country, with an estimated forty percent being minors due



to the rising demand for very young girls to be ushered into prostitution as a result of customer preferences, according to studies and surveys supported by the Ministry of Women and Child Development (MWCD). Under its Phase 3 programme, the National AIDS Control Agency estimated that between 8,31,677 and 1,242,819 persons in India engaged in sexual exploitation. The unofficial numbers are probably much higher. In most metropolitan cities in the country, prostitution hubs are present. Like:

- 1) Sonagacchi in Kolkata West Bengal
- 2), Kamathipura in Mumbai, Maharashtra
- 3) G.B Road in Delhi

Workers in the brothel in these areas often lack access to basic amenities like showers, sanitary sex areas, and educational opportunities for their children. Most of the employees here suffer from sexual assault, physical and psychological abuse, and even famine. Many of the women who work in brothels have been forced to work there, while others have chosen to do so voluntarily. In most circumstances, a professional's desire to quit the field is met with resistance. Large, well-connected pimps in control of a brothel may often resort to assault, torture, extortion, or even trafficking against a woman who wants to leave prostitution. It's common practise for police in India to harass sex workers. After being rescued, sex workers are often brought to hospitals where they are subjected to forced HIV testing, discrimination, harassment, and sometimes even sexual favour requests from physicians and nurses.

## 2. CAUSES FOR PROSTITUTION

- i. **Poverty:** This is the biggest reason females are either being forced or lured by someone promising employment opportunities. Later they sell them as sex workers. The chain continues as illiteracy leads to poverty, it leads to unemployment and it leads to
- ii. **Family prostitutes:** often the children of prostitutes have no option but to carry on the same work as their mothers as there is a lack of acceptance as well as education in the society.
- iii. **Social customs:** There are still some communities like the banchhara community which send the girls in the community into prostitution as a part of their moral and religious duty. The flesh trade is carried on the national highway of Madhya Pradesh.
- iv. **Sale by husband or relatives:** Especially in the areas of Warangal, Chittoor, Bellampali, and other northern parts of M.P and U.P, etc.

Police execute raids on brothels in response to complaints from nongovernmental organisations (NGOs), to rehabilitate and "rescue" youngsters, or on the basis of tips they receive. Almost 200 women were "rescued" and taken to "correction houses" in a three- or four-day operation at a Mumbai red light district known as the Simplex building in 2012. Recently, it has been revealed that police utilised excessive force during these purported rescue and rehabilitation operations. The rights of the sex workers were being infringed during these illegal raids. Many of the sex workers who are apprehended in these raids are taken to the police station, where they are subjected to indescribable levels of humiliation and abuse. The police officers who imprison the sex workers sometimes resort to sexually abusing them while they are in custody. Chilli powder would be smeared in their eyes and genitalia as they were beaten with batons and forced to clean the police station. Even when the employees' side of the story was offered in court, the judge only heard the police's and the workers were coerced into admitting guilt. There is no discrimination made between victims of trafficking and those who voluntarily entered the industry. Despite the sex workers' claims that they entered the industry voluntarily, several of them were transferred to Sudhar Griha, a rehabilitation centre where they were subjected to poor living circumstances, including a lack of food and clean water, and more abuse.

### Case Study - I: Sayeda

Sayeda was fourteen years old when her boyfriend took her on the other side of a river, illegally entering India. A few days later, her boyfriend told her she was going to work in a brothel, responding



“I’ll kill you and dump you in the river” the moment she refused. Sayeda said to have been so scared, that finally, she had to accept, imposing that she will only work as a dancer, nothing else. Prasanta Bhakta was the man who ran the brothel, where dozens of other girls from different towns were held captive. He immediately raped her, because according to the other girls, that was the way he assessed the prices the customers had to pay for their ‘services’ - by having sex with them.

Forced to drink alcohol to become more ‘pliable’, Sayeda began drinking heavily because she discovered that drinking would numb the trauma of becoming a sex slave.

Sayeda said in an interview with the National Geographic: Day and night, customers would come in and rape the females up to twenty times a day. Drunken guys would stagger into the girls' rooms around 4 a.m., when they were desperately trying to sleep. The girls may have been able to alleviate the physical pain with medication, but the mental anguish they experienced was unavoidable. Following weeks or months of this treatment, they would develop a kind of immunity to it.

The police squad who stormed the brothel in April 2017 were able to rescue Sayeda and nineteen other women and girls from that hell on Earth by apprehending Bhakta.

#### Case Study - II : Monali

Monali was thirteen years old when she was going to be sold as a child bride, after being kidnapped and trafficked from her hometown in Medinipur District to the Kalahandi district. However, after being abused, tortured and raped by the trafficker, Monali found the courage to escape from that tormented life. The day of her escape, the terrified child was found in a local market by a driver, who did not hesitate to bring her to the police station. Afterwards, the anti-trafficking organisation Suchetana Mohila Mondali had talked to her and managed to bring her home, where her family was. But the family refused to accept her. Victims of human trafficking and the flesh trade, who are often abused, find reintegrating into their community very difficult because they are usually not welcomed by their own families. This is due to the social stigma attached to the abuse the flesh trade victims have experienced, although involuntary. Monali now lives in a government shelter home.

#### Case Study - III: Trishna

Trishna was fourteen years old when a trusted boy sold her into commercial sexual exploitation in a city where she did not speak the language. Forced to dance at sex parties for more than half of the year, she was held captive, threatened and tortured. The day she was found and saved, was thought to be the end of that hellish nightmare. However, that was not the case. The nightmare that followed her steps home has revealed the sad reality in which numerous survivors of the flesh trade have to live in, long after they have been rescued. Trishna dropped out of school and spent three years in a chaotic environment before the NGO contacted her and provided her with healthcare and financial assistance.

#### Case Study - IV: Tina

Tina was fourteen years old when her father reported her as missing. As well as many other victims of the flesh trade, Tina was led away by a trafficker with the hope of working in a big city. The interviewed friends stated that Tina used to spend her time speaking with a boy named Rajan, and when a taxi driver had recognised her, his testimony adhered to that information. After tracing an unexpected phone call to her grandmother, the police found that Tina was in Delhi. The local police were informed about the case and conducted a raid, rescuing her.

### 3. LEGAL STANCE OF SEX WORK

There is some disagreement as to whether or not sexual servitude is allowed in India. While technically legal, prostitution in India is subject to a number of regulations. Prostitution is defined as sexual exploitation or abuse for financial gain under Section 2(f) of The Immoral Traffic (Prevention) Act, 1956. The Immoral Traffic Prevention Act of 1956 allows for the arrest and detention of sex workers and pimps. There is no clear statement in the Act that prostitution is



forbidden. The Act makes it illegal to "pimp" or "tout" someone for sexual services. Procuring or recruiting sex workers is also considered illegal. The Act also criminalises the management of a "brothel," as defined in Section 2 of the Act, which is a building or home used for the practise of sex work.

The site of prostitution is addressed under Section 7 of the Immoral Traffic (Prevention) Act of 1956. Prostitution is a crime if it is performed in a public location, as stated in Section 7. In addition to prohibiting prostitution in public areas, Section 7 makes it illegal to engage in sex work within two hundred (200) metres of schools, churches, and other public buildings. The competent authorities may shut down a hotel if sex work is going on there.

So, from the Immoral Traffic Prevention Act, it can be deduced that:

- It is against the law to run a brothel or any other establishment where prostitution takes place.
- Pimping and sex worker promoting are both unlawful practises.
- Being regularly accompanied by a sex worker.
- It is against the law to solicit another individual for sexual servitude.
- It is against the law to engage in sexual activity in a public location or within 200 metres of a public place housing a hospital, religious organisation, school, etc.
- It is against the law to knowingly expose oneself in such a manner as to encourage prostitution from other persons or random bystanders.

The Immoral Traffic Prevention Act is the primary legal framework in India addressing the issue of sex labour. Instead of reducing or eliminating the need for sex workers, the Act has made their jobs more precarious. The Act's listed portions have left sex workers open to harassment from pimps, clients, and government agencies including the police.

Women who are 'rescued' from brothels must be placed in "protective homes" where they will get vocational training in accordance with the Immoral Traffic Prohibition Act of 1956. But, official consideration of the women's permission is not included in the rescue and placement procedure.

The Immoral Traffic (Suppression) Act 1956 is the primary legislation dealing with sex workers, and it provides a legal framework within which sex workers may engage in their trade in secret. Why is it done in secret if it's legal? The International Trafficking in Persons Act (ITPA) addresses several topics directly linked to prostitution.

The statute penalises anyone who run or let their property to be used as a brothel under Section 3.

Section 4 of the Act makes it illegal to engage in prostitution for financial support. This provision applies even to members of the close family.

Prostitution-related acquisition, induction, or taking are all punishable offences under Section 5 of the law. This part focuses on the criminal element, including pimps, brothel owners, and traffickers.

Section 6 of the Act makes it illegal to keep a sex worker in an illegal brothel or other facility where prostitution takes place. The pimps and brokers who control the prostitution industry are the clear targets of this section.

Prostitution committed in or near public areas is punishable under Section 7 of the Act.

Seduction or solicitation of a person for the purpose of prostitution is punishable by the sex worker under Section 8 of the Act. A sex worker is prohibited from making any overt sexual overtures in this part.

#### 4. ABJECT HELPLESSNESS IN A VICIOUS CIRCLE

The constitutionality of the Immoral Traffic In State of Uttar Pradesh vs. Kaushalya (1963), the constitutionality of the Prohibition Act of 1956 was questioned. In one instance, a show-cause notice



was issued to a group of sex workers in Kanpur, asking them to explain why they shouldn't be forced to vacate their homes as part of an effort to "purify" the city. The Allahabad High Court ruled that the Act was legal since there was a clear distinction between a prostitute and a nuisance.

For the purpose of enforcing various effective methods for the rehabilitation of sex workers and aiding those who are ready to quit sex work, the Supreme Court set up a panel led by prominent attorney Pradip Ghosh in 2011.

#### Case- I

After the *Budhadev Karmaskar v. The State of West Bengal* case, the panel led by Pradip Ghosh was established. Budhadev Karmaskar, the appellant, was accused of killing Chaya Rani Pal, aka Buri, a sex worker, in front of a small number of witnesses. Appellant was properly found guilty of murder. It was also said that a lady does sex job not because she enjoys it but because she needs the money. Article 21 of the Indian Constitution gives sex workers the right to live with respect in society, and the court ruled that this right must be respected. Government Houses, where rescued sex workers go for rehabilitation, were also mentioned in the panel's findings.

A group led by Pradip Ghosh in February 2016 advised that people engaging in sex work with their own permission not be subject to harassment, penalties, or arrest. The discussion group advocated that law enforcement not intervene or pursue criminal charges against consenting people engaging in sex work. Section 8 of the Immoral Traffic Prevention Act addresses solicitation for prostitutes, and the panel recommended its elimination due to its abuse by authorities. The group also recommended changing Section 4 of the Act so that no parent, partner, or children who depend entirely or mostly on a prostitute's earnings be subject to criminal prosecution.

#### Case - II

More recently in the case of **Manoj Shaw @ Manoj Kumar Shaw vs The State of West Bengal**, Calcutta's highest court ruled against the defendants' request for an anticipatory release, saying that the sex workers should be viewed as victims rather than offenders. The minor victim of sex work in the instance was taken into custody but not brought before the Child Welfare Committee (CWC). In its ruling, the High Court issued a number of directions concerning the detention and subsequent release of sex workers. To name a few:

When the victim is a minor, a more severe penalty is attracted involving sentence above seven years, and recourse to Section 41A of the Code of Criminal Procedure is totally prohibited. No sex worker utilised for sex trade shall be grouped as a suspect in the investigation or prosecution of offences underneath the Immoral Traffic (Prevention) Act, 1956 unless and until cogent stuff comes on record demonstrating that she was also involved as a co-conspirator in the crime. When looking into violations of the Immoral Traffic (Prevention) Act, 1956 or similar violations of the Indian Penal Code, investigating officers are not allowed to detain sex workers but must instead treat them as victims of crime, providing them with witness protection programmes, "interim compensation, and other forms of rehabilitative and protective custody as necessary. If the victim is a kid, she must be sent to CWC immediately so that she can get the care, protection, and rehabilitative services she needs. These directions are in addition to the directions given by this court in **State of West Bengal Vs. Sangita Sahu @Shaw**, (2018) 3 C Cr. LR (Cal) 459."

#### Case - III

In the case of **Kajal Mukesh Singh and others vs State of Maharashtra**, According to the Bombay High Court's ruling, prostitution is not illegal under the Immoral Traffic Prevention Act of 1956. The Court ruled that it is a violation of their constitutional rights to imprison individuals who engage in consensual sex work.

#### Case - IV

In the case of **Vishal Jeet v. Union of India (1990)**, To investigate Red Light Districts and forced prostitution from a legal standpoint; to save victims of commercial sexual abuse and offer them





adequate medical treatment, shelter, education, and training in various disciplines to allow them to choose a more dignified path in life; this Public Interest Litigation (PIL) was submitted in the shape of a petition filed under Article 32 of the Indian Constitution at the instigation of an Advocate.

The petition highlighted the reality that impoverished parents were selling their children and young girls due to extreme poverty, with the expectation that their children would be restricted to domestic or factory work. Yet, pimps, brokers, and keepers acquire them by trickery or abduct children to force them into the "meat trade."

A precedent-setting Public Interest Litigation addressed the problem of people trafficking for sexual abuse and exploitation. The Supreme Court's landmark decision clarified how communities and families may protect and help persons who have been dedicated as devadasis for cultural reasons or as victims of forced prostitution.

## 5. LEGALIZED PROSTITUTION ESSENTIAL

At the very least, legalisation would provide some assurance that their and their children's rights would be protected. They might insist on safer sex and frequent checkups for both her and the client's sake. Spread of sexually transmitted diseases might be reduced in this way. As sex workers would need to be licenced, underage participation would be illegal.

Earning money at the expense of a woman's pride and self-respect is not something to be commended. And if prostitution is legitimised in Indian culture, more women would see it as a viable career option, encouraging a surge in the number of prostitutes in the country. Because of this, the market for this product or service will explode. The risk that legalising prostitution may boost human trafficking is another area of worry. Many of India's 84 million destitute families are forced to sell their daughters to traffickers so they can feed their families. More minors will be coerced into working as prostitutes if prostitution is legalised. Scams will also multiply at an alarming rate.

## 6. CONCLUSION

Sexual labour may be condemned as immoral, but it is not illegal. A violation of Articles 21 (right to life) and 19(1)(g) (freedom to engage in any profession or trade) would result from any attempt to make sex labour illegal. The sex workers were left to the whims of the administration according to the Immoral Traffic Control Act of 1956. The Supreme Court group led by Pradip Ghosh proposed several long overdue changes to the Immoral Traffic Prevention Act. The following are some suggestions for improving the lives of sex workers:

- i. The Supreme Court panel's recommendations must be implemented, and the Act must be amended as necessary to improve the status of sex workers.
- ii. Administrative authorities should not harass, arrest, or detain consenting adults for engaging in sex work.
- iii. If an adult has been trafficked for sex work, they must be given the option of remaining in the "protected house" or being returned to their relatives.
- iv. To reduce the number of women who have to spend extended periods of time in Government Homes after being rescued from a brothel, the legal process after such an operation has to be expedited.
- v. In order to encourage safe sex practises, condom vending machines should be placed at sex work facilities.
- vi. Children of sex workers and rescued women who are either unable or unwilling to return to their families are entitled to an education and professional training provided by NGOs with the support of state governments and the Legal Services Authority.

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