



Sex Workers - Law and India: Social Context

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ABSTRACT

Prostitution comes from the Latin word "Prostiture" which means public. Prostitution is defined as offering sexual services for money. Prostitution, like other forms of male violence against women, is a gendered issue as the majority of victims are women. However, it would be naive to say that men are not victims of sexual abuse and violence. Also, when we point out the flaws in India's prostitution system, transgender people are often overlooked. Prostitution generates billions of dollars in revenue in India and around the world primarily by exploiting the socially and economically weak. Human rights abuses occur throughout India but are particularly visible in the lives of people involved in prostitution and sex work. Discrimination against prostitutes is as common in India as discrimination against other marginalized groups based on class, caste, ethnicity, or religion. Sex work is seen as a vile and sinful way of life that threatens to corrupt the "innocent" population. This stigma deprives prostitutes and their families of basic rights: women do not have access to proper health care and are often abused, assaulted, and mistreated by police and government officials, while their children are subjected to harassment in schools and workplaces. Human trafficking is still a problem in the current social system and there are places where prostitution is illegal. These women are not recognized as regular workers and are often treated unfairly. However, they are found all over the country and will find ways to make money despite the laws against them. This means that government rules are not always followed.

Keywords: sex worker; Court; Sex; Law; Human trafficking

Introduction:

Prostitution is one of the oldest professions in the world. In India, this profession has existed since time immemorial. It is a multi-billion dollar industry. Prostitution is taboo in India, rarely discussed in public, and condemned. Because prostitution is an ancient practice that has existed for too long, it cannot be eradicated. Many women engage in sex work to support their families. Legislation has existed since 1956 allowing the arrest of any sex worker caught paying for sex. It is also illegal to publish their address or phone number in print. The law and society's attitudes towards sex workers differ significantly from each other, which makes us wonder how society can think about this issue (Kotishwaran, 2001).

Legal and Sexual Services:

Trafficking in women remains a remnant of historical slavery. The regulation set up using land on one aspect and placing the sexes on the opposite aspect no longer most effectively allows for the opposite social photograph, however, these twins additionally challenge today's so-called thinking. The difficulties associated with intercourse correspond to the difficulties of the whole of human civilization, and so high society seems to push intercourse away. A tangled web of sexism, gender discrimination, power, patriarchy, classism, over-exploitation, oppression of the poor, and melancholia rules the sexed. 'The Suppression of Immoral Traffic in Women and Girls Act, 1956', under which the lives of ladies involved in intercourse painting have been turned upside down (The Immoral Traffic Prevention Act, 1956, 2022). If we analyze this regulation from a conventional point of view, in which it is forbidden to use the word "sex worker", the country did not know these images as a profession in any case, otherwise, it could be seen that the perception is much easier for the country. those ladies as "prostitutes" as a mirror image of medieval thought. The basic aim of this act is to save you from immoral trading and to ensure that no ladies or minors want to reach the prohibited locations through this trading. The country's efforts to rescue the ladies sacrificed in the face of contemporary poverty and bring them back into the mainstream enthralls the reader. But is the real photo that simple? This question comes up again and again (Das and Ghosh, 2023).

Law and State:

The Government of India passed The Immoral Traffic (Suppression) Act (SITA) in 1956; under this law, prostitution is legal, but soliciting and inducing people to engage in sexual practices is negligible. Under the (Immoral Trade Prevention Act 1956), prostitution is the sexual exploitation or abuse of people for commercial purposes. It is also not a criminal offense under IPC. Although sex work is legal, running a brothel is not. It goes against the whole

premise of prostitution (Sahni and Shankar, 2013). Since they cannot open a brothel, they have to meet their clients at a hotel. Authorities often raid such establishments and arrest both the owners and their guests. They are usually arrested and charged with breaking the law. However, it is legal. One thing the law requires prostitutes to do is to keep them out of the public eye. The Indian Penal Code (IPC), which predates SITA, is sometimes used to punish prostitutes for broad offenses such as "public indecency" or "public nuisance" without clarifying what these are. The original Act was revised in 1986 to become the (Immoral Traffic Prevention Act) or ITPA. This was a result of India signing the United Nations Declaration on the Abolition of Trafficking in Persons in New York in 1950. Apart from the ITPA, the Indian Penal Code of 1860, the Indian Constitution of 1950, the Juvenile Justice (Care and Protection of Children) Act of 2015, and several state laws have been created to combat prostitution and prostitution, and human trafficking. The law does not itself make prostitution illegal, but prohibits, among other things, the operation and use of brothels, living off the proceeds of prostitution, pimping, solicitation, hiring others to perform prostitution in prison or elsewhere, and prostitution in public places. An offense is punishable by law. Consequently, whether prostitution is performed independently or freely, it is not a criminal offense (2008 Human Rights Reports: India, 2023).

According to this Law:

- Owners of brothels and persons who receive income from brothels are punished by this law.
- Any woman suspected of running such an activity located near a brothel or engaged in prostitution is guilty under this Act.
- The right to a warrantless search of the house or premises of a suspected brothel by a special police force is given to the state by this law.
- The law allows eviction from these prohibited villages as directed by the state at any time without any promise of resettlement.
- In case a minor or a woman engages in sexual activity under the promise of work, the law also provides punishment for both parties.
- Sections 15 and 16 of this Act mandate the detention of women rescued from prohibited villages (Pradhan, 2002).

An analysis of the above clauses reveals the unique character of the Indian polity. Although all these clauses imposed by the state provided social security in some cases, they could not show the light of hope in the dark alleys of the prohibited localities. According to this law, trafficking in women should be strictly suppressed. Policy and also through this cycle of trading, special attention is paid to ensure that no woman is forced into this profession under the pressure of the situation. But the reality is completely different. In the current social system, on the one hand, there is an active cycle of trafficking in women, and the destruction of forbidden villages is also significant. These women were never recognized as workers and entertainers. Women's physical attractiveness is a commodity for men in various fields of entertainment. Although this product is enjoyed behind the scenes, it can never be recognized as a worker. These women, who are on the marginal level of social life, are therefore excluded from social life. On the other hand, the placement of sex workers in different parts of the city and how these women break the legal barriers imposed by the state to make a living shows the compromise of the state system. In this case, the state can transcend the area of legal complexity and appear in another complex cycle of political space (Oliveira, et.al, 2023). The exploitation of sex workers at various levels of government is a particular aspect of the state system along with the restriction of this profession in this specific regional area. Although SITA (1956) and later ITPA (1986) were the main objectives of these two Acts to outlaw sex services under various pretexts and push them into hiding, various voluntary organizations have given self-reliance to sex workers today. Sex workers are not neglected in society and are part of society like five ordinary women. Many steps have been taken along with awareness about sex workers. ITPA which oppresses women should be repealed immediately. International anti-trafficking organizations and Indian police have used "rescue and recovery" as a mission strategy. These "rescue" programs for trafficked and underage sex workers are sometimes successful, but always at the expense of the prostitute community (Prakash, 2013). There is no discrimination between adults and juveniles in the regulations governing raids and rescues. Offenses under the ITPA include keeping a person "with or without his consent" on premises where prostitution is carried on, as well as introducing a person "with or without his consent" into prostitution (Bhattacharji, 1987). The consent or lack of consent of an adult is a critical aspect in crimes such as kidnapping or unlawful imprisonment in determining whether the act is criminal. According to a three-judge bench headed by Justice L. Nageswara Rao, sex workers have the same right to a dignified existence under Article 21 of the Indian Constitution. Regarding the "brutal and violent" treatment of sex workers by the police, the court said that sex workers are a class whose rights are not recognized. The police and other law enforcement organizations should be aware of the rights of sex workers who have the same basic human rights and other rights as all citizens protected by the Constitution (Arora, 2023).

Discussion:

There are mainly two types of debates on the topic of prostitution. The first is whether prostitution is a business or a profession. Prostitution is a type of employment. Not everyone can do it and it has to be done by persons or women with specific skills. Consequently, it could be called a career (Banerjee, 1993). When performing in a brothel, prostitution can also be considered a business. When prostitution is run by a group or group of women, a significant amount of money is received. Owning and operating a brothel is illegal in India, but prostitution is legal. Another point of contention is whether prostitution violates public morality and decency or is obscene. Sex work is a profession and a reasonable restriction of Article 19 paragraph 1 letter g) does not apply to him.

Conclusion:

Looking at the documents of colonial rule, it seems that the need to know about the lives of these prostitutes was driven by the desire to know about venereal diseases. On the other hand, the denial of the self-identity of sex workers in the current social system reflects the self-image of the working class in India. Ignorance, illiteracy, lack of identification with other social groups, and above all the oppression of Malkin (landlord), Mastan (hooligan) and Babu (Master) will start a new chapter of oppression in the life of prostitutes. In this case, some voluntary organizations managed to spread various educational campaigns in some sex villages in some parts of India. However, it remains to be seen whether education can get the children of sex workers out of this situation. As a result of inequality in various areas, the development of rights among sex workers is naturally uneven. This legal tussle, which is misunderstood at the local level, is in many areas the main obstacle to the return of prostitutes back into the mainstream of society. The lives of sex workers today revolve around frustrations, fears, dilemmas, doubts, hopes, and desires. Patriarchal society has broken women into pieces, good women and bad women, to subjugate them. An accurate picture of sex workers can be obtained through the nineteenth-century Bengali "Babu" literature, just as the anti-sex worker action program in various parts of India today is helping to highlight the reality of the lives of sex workers especially. The struggle of sex workers today is to leave the complexities of the state system and transform social life into self-confidence. People's behavior is shaped by the political background of society. Depriving and degrading women's lives after being identified as sex workers can only bring about a dramatic change in the backdrop of providing true dignity to women.

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